

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

DONALD ELLIS, ET AL. §
Vs. § CIVIL ACTION NO. 9:07CV231
UNION PACIFIC RAILROAD COMPANY §

ORDER

Plaintiffs Donald Ellis, Horace Fogle, Phillip Thomas, John Staggs and Donald Crago filed the above-styled lawsuit on September 28, 2007, in the Eastern District of Texas, Lufkin Division. The matter was referred to the undersigned in accordance with [28 U.S.C. § 636](#).

On June 16, 2008, Defendant filed Motions to Transfer Venue, seeking a transfer of each Plaintiff's claims to a different district (see document [#45](#), [#46](#), [#47](#) and [#48](#)). A [response](#) was filed by Plaintiffs Staggs, Crago and Thomas on June 30, 2008. Recently, the Fifth Circuit granted a petition for rehearing en banc regarding the decision of [In re Volkswagen, 506 F.3d 376 \(5th Cir. 2007\)](#), vacating its previous opinion and judgment and staying the mandate. *See In re Volkswagen*, No. 07-40058 (5th Cir. Feb. 14, 2008) (order granting petition). An oral argument was conducted in that case on May 22, 2008.

The undersigned finds that the *Volkswagen* decision is central to an analysis of a 28 U.S.C. § 1404(a) transfer in this Circuit. As a result, the case should be stayed pending the en banc decision

of the Fifth Circuit in *Volkswagen*. In light of the foregoing, it is hereby

ORDERED that the above-styled case is **STAYED**, pending the en banc decision of the Fifth Circuit in the matter of *In Re Volkswagen*.

So **ORDERED** and **SIGNED** this **2** day of **July, 2008**.



JUDITH K. GUTHRIE
UNITED STATES MAGISTRATE JUDGE