

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: MICHAEL STAPLETON ASSOCIATES, LTD.,
FAIR LABOR STANDARDS ACT (FLSA)
AND WAGE AND HOUR LITIGATION**

MDL No. 2799

ORDER DENYING TRANSFER

Before the Panel:* Defendants Michael Stapleton Associates, Ltd (MSA) and Michael O’Neill, MSA’s chief executive officer, move to centralize two actions in the Southern District of New York. The actions, which are listed on the attached Schedule A, are pending in the Southern District of New York (*Barrett*) and the Northern District of Texas (*Blackmon*), respectively.¹ The *Barrett* plaintiffs take no position on centralization, but specifically object to litigating outside of the Southern District of New York. The *Blackmon* plaintiffs oppose centralization.

On the basis of the papers filed and the hearing session held, we deny defendants’ motion. These actions share factual issues arising from allegations that MSA forced its explosive detection canine handlers to perform a substantial amount of work without compensation. This uncompensated work purportedly included working with, training, and caring for the dogs, even though such tasks were a required and essential part of the handlers’ jobs. Nevertheless, there are only three actions (including the one potential tag-along) pending in two districts. The factual issues appear relatively straightforward, and unlikely to require extensive discovery. In addition, the litigation is unlikely to grow substantially, as the universe of potential plaintiffs is small – approximately 500.² These circumstances indicate that cooperation and informal coordination by the involved courts and counsel are feasible. *See In re: Crest Sensitivity Treatment & Prot. Toothpaste Mktg. & Sales Practices Litig.*, 867 F. Supp. 2d 1348, 1348 (J.P.M.L. 2012) (denying centralization and listing examples of mechanisms available to prevent redundant discovery). Indeed, the *Blackmon* plaintiffs represent that they already have coordinated with the *Barrett* plaintiffs with respect to pre-mediation discovery. There is no apparent reason such coordination cannot continue.

* Judge Lewis A. Kaplan and Judge Ellen Segal Huvelle took no part in the decision of this matter.

¹ The Panel has been informed of one additional federal action involving related issues.

² According to defendants, MSA employed approximately 471 canine handlers during the three-year period between July 1, 2014, and June 30, 2017.

IT IS THEREFORE ORDERED that the motion for centralization of these actions is denied.

PANEL ON MULTIDISTRICT LITIGATION

Sarah Vance

Sarah S. Vance

Chair

Marjorie O. Rendell
R. David Proctor

Charles R. Breyer
Catherine D. Perry

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SCHEDULE A

Southern District of New York

BARRETT, ET AL. v. MICHAEL STAPLETON ASSOCIATES, LTD.,
C.A. No. 1:17-05468

Northern District of Texas

BLACKMON v. MICHAEL STAPLETON ASSOCIATES LTD,
C.A. No. 3:17-01362