

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: BROILER CHICKEN GROWER  
ANTITRUST LITIGATION**

MDL No. 2838

**ORDER DENYING TRANSFER**

**Before the Panel:** Plaintiffs in the two actions listed on Schedule A move under 28 U.S.C. § 1407 to centralize pretrial proceedings in this litigation in the Eastern District of Oklahoma. This litigation consists of two actions pending in the Eastern District of North Carolina and the Eastern District of Oklahoma, as listed on Schedule A. Responding defendants<sup>1</sup> support centralization in the Eastern District of Oklahoma.

On the basis of the papers filed and the hearing session held, we conclude that centralization is not necessary for the convenience of the parties and witnesses or to further the just and efficient conduct of the litigation. Where only a minimal number of actions are involved, the proponent of centralization bears a heavier burden to demonstrate that centralization is appropriate. *See In re Transocean Ltd. Sec. Litig. (No. II)*, 753 F. Supp. 2d 1373, 1374 (J.P.M.L. 2010). Plaintiffs have not met that burden here.

There is no dispute that this litigation involves common factual questions relating to allegations that defendants agreed not to compete for “Broiler Grow-Out Services,” *i.e.*, the services of farmers who raise broiler chickens under contracts with chicken processors such as defendants. But there are only two actions before the Panel, brought by the same plaintiffs against different defendants.<sup>2</sup> In these circumstances, alternatives to centralization, such as informal cooperation among the relatively few involved attorneys and coordination among the involved courts, are eminently feasible and will be sufficient to minimize any potential for duplicative discovery or inconsistent pretrial rulings. *See, e.g., In re Eli Lilly & Co. (Cephalexin Monohydrate) Patent Litig.*, 446 F. Supp. 242, 244 (J.P.M.L. 1978); *see also* Manual for Complex Litigation, Fourth, § 20.14 (2004).

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<sup>1</sup> Responding defendants are Tyson Foods, Inc.; Tyson Chicken, Inc.; Tyson Breeders, Inc.; Tyson Poultry, Inc.; Perdue Farms, Inc.; Koch Foods, Inc.; Koch Meat Co., Inc., d/b/a Koch Poultry Co.; Sanderson Farms, Inc.; Sanderson Farms, Inc. (Food Division); Sanderson Farms, Inc. (Processing Division); and Sanderson Farms, Inc. (Production Division).

<sup>2</sup> Plaintiffs’ claims initially were brought in a single action in the Eastern District of Oklahoma. The court dismissed two groups of defendants on personal jurisdiction and venue grounds, resulting in the two actions now before the Panel.

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

PANEL ON MULTIDISTRICT LITIGATION

*Sarah Vance*

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Sarah S. Vance  
Chair

Marjorie O. Rendell  
Lewis A. Kaplan  
R. David Proctor

Charles R. Breyer  
Ellen Segal Huvelle  
Catherine D. Perry

**IN RE: BROILER CHICKEN GROWER  
ANTITRUST LITIGATION**

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**SCHEDULE A**

Eastern District of North Carolina

HAFF POULTRY, INC., ET AL. v. KOCH FOODS, INC., ET AL.,  
C.A. No. 7:18-00031

Eastern District of Oklahoma

HAFF POULTRY, INC., ET AL. v. TYSON FOODS, INC., ET AL.,  
C.A. No. 6:17-00033