**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

In Re: **Mark Daniel Lyttle Litigation**	**MDL Docket No. ________**

MEMORANDUM OF LAW IN SUPPORT OF FEDERAL DEFENDANTS' MOTION FOR TRANSFER OF ACTIONS PURSUANT TO 28 U.S.C. § 1407

INTRODUCTION

All Federal defendants in two related actions[1] (the "Scheduled Actions") respectfully move the Panel pursuant to 28 U.S.C. § 1407 to consolidate the Scheduled Actions for centralized pretrial proceedings.[2] Both suits arise from the detention and deportation of Plaintiff, Mark Daniel Lyttle, and involve virtually identical factual allegations and legal theories. Because the initial detention and recommendation to deport Lyttle occurred in the Eastern District of North Carolina, consolidation and centralization there is most appropriate.

The Panel should consolidate the Scheduled Actions in light of the statutory criteria and other factors considered by the Panel. First, both suits involve nearly identical legal claims premised upon virtually identical factual allegations. They raise numerous common questions of

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[1] *Lyttle v. United States*, No. 4:10-cv-00142-D (E.D.N.C.); *Lyttle v. United States*, No.1:10-cv-03302-CAP (N.D. Ga.). *See* attached "Schedule of Actions."

[2] Attorney General Eric H. Holder, Jr., Secretary of Homeland Security Janet Napolitano, Director of the Executive Office of Immigration Review Thomas G. Snow, and Immigration and Customs Enforcement Director John T. Morton are all sued in their official capacity in the Georgia action. These official-capacity defendants and the United States are collectively referred to as the "United States." The individual Federal defendants named in the Georgia action are: James T. Hayes, Raymond Simonse, David Collado, Marco Mondragon, Tracy Moten, Michael Moore, Charles Johnston, and Brian Keys. The individual Federal defendants named in the North Carolina action are: Dashanta Faucette, Dean Caputo, and Robert Kendall. The United States and all eleven individual Federal defendants are collectively referred to as the "Federal defendants."

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fact, including the alleged acts or omissions of the various government officials allegedly involved in Lyttle's detention and deportation. Second, immediate transfer will avoid inconsistent rulings on anticipated dispositive motions that may, for instance, raise similar qualified immunity defenses for the individual Federal defendants and similar legal defenses for the United States. Centralization will also preclude the possibility of duplicative discovery, which is particularly important here since there are numerous Federal defendants – *i.e.*, the United States and eleven individuals from two different Federal agencies – as well as several state and private entities, including unnamed Georgia and North Carolina officials, the North Carolina Department of Correction, and the Corrections Corporation of America ("CCA").[3] Finally, consolidation will be convenient for the numerous parties and prospective witnesses who would otherwise be burdened by multiple depositions and other pretrial matters.

Centralization in the Eastern District of North Carolina is most appropriate because the underlying events giving rise to Lyttle's claims originated there, and North Carolina is centrally located in relation to where the parties presently reside. In the alternative, transfer to the Middle District of Georgia should also be considered because Lyttle was detained there prior to his deportation, but it is less appropriate than consolidation in the Eastern District of North Carolina. Centralization in the Northern District of Georgia, however, would not be compatible with the Panel's criteria for the reasons discussed below.

[3] Counsel for Federal defendants have conferred with counsel for all parties in both actions regarding this motion and is authorized to represent that the North Carolina Department of Correction consents to this motion insofar as it seeks consolidation in the Eastern District of North Carolina, but that it would oppose consolidation in Georgia.

BACKGROUND[4]

In addition to the Federal defendants, Lyttle has sued in the Georgia action unnamed U.S. Public Health Service individuals, unnamed Georgia officials, and CCA; in the North Carolina action, Lyttle also has sued the North Carolina Department of Correction and unnamed North Carolina officials. In short, Lyttle alleges that the defendants in both actions unlawfully detained him and recommended that he be deported to Mexico despite his claims of being a U.S. citizen. The extensive factual allegations set forth in each complaint are nearly the same.

In 2008, Lyttle was convicted of inappropriately touching a female nurse at Cherry Hospital in Goldsboro, North Carolina. Ga. Compl. ¶ 35; N.C. Compl. ¶ 26. On August 14, 2008, he was sentenced to 100 days incarceration at the Neuse Correctional Institute ("NCI"), also located in Goldsboro. *Id.* During the booking process, state officials allegedly identified Lyttle as a possible alien from Mexico despite his objections that he was a U.S. citizen born and raised in North Carolina. *See* Ga. Compl. ¶¶ 36-37; N.C. Compl. ¶¶ 27-33. He was subsequently referred to U.S. Immigration and Customs Enforcement ("ICE") for further investigation. *See* Ga. Compl. ¶ 37; N.C. Compl. ¶¶ 32-33.

Lyttle claims that ICE agents in North Carolina "interrogated" him about his citizenship. Ga. Compl. ¶ 37; N.C. Compl. ¶ 35. He further alleges that they ignored his repeated claims of U.S. citizenship and improperly classified him as a Mexican citizen named "Jose Thomas" who entered the United States at age three, facts allegedly documented in various ICE reports and other documents. Ga. Compl. ¶¶ 38-40; N.C. Compl. ¶¶ 36-38. Lyttle claims that he was not allowed to review these documents but simply instructed to sign his name admitting the allegations therein. Ga. Compl. ¶ 42; N.C. Compl. ¶ 40. ICE agents, moreover, purportedly

[4] Unless otherwise noted, the facts recited *infra* are derived from the common allegations in both Scheduled Actions, which are assumed to be true solely for the purpose of this motion.

instructed Lyttle to sign the documents even though they knew that he suffered from bipolar disorder and other mental disabilities. Ga. Compl. ¶¶ 37, 42-43; N.C. Compl. ¶¶ 35, 40-41. He further claims that ICE agents ignored other indicia of his U.S. citizenship, including those contained in federal electronic databases. Ga. Compl. ¶¶ 44-45; N.C. Compl. ¶¶ 42-43.

Lyttle alleges that, on September 5, 2008, ICE agents signed a "Warrant for Arrest of Alien" and a "Notice of Intent to Issue Final Administrative Removal Order" in order to commence removal proceedings against him. Ga. Compl. ¶¶ 46-47; N.C. Compl. ¶¶ 44-45. He also alleges that, on September 8, 2008, ICE agents coerced him into admitting the allegations in the Notice even though he did not knowingly consent to removal or understand what he was signing. Ga. Compl. ¶¶ 50-51; N.C. Compl. ¶¶ 48-49. He was purportedly manipulated into signing a "Notice of Custody Determination," which allowed federal agents to detain him pending final determination by an immigration judge. Ga. Compl. ¶¶ 48, 52; N.C. Compl. ¶¶ 46, 50.

Although Lyttle was set for release from state custody on October 26, 2008, he was instead delivered into ICE custody on October 28, 2008, and then transferred to the Stewart Detention Center ("SDC") in Lumpkin City, Georgia. Ga. Compl. ¶ 56; N.C. Compl. ¶ 58. He was again interviewed by ICE agents at SDC regarding his citizenship. Ga. Compl. ¶ 58; N.C. Compl. ¶ 60. Lyttle alleges that, despite repeatedly claiming that he was a U.S. citizen, agents found him deportable on account of his criminal convictions. Ga. Compl. ¶¶ 58-59; N.C. Compl. ¶¶ 60-61. A formal "Notice to Appear" was issued on November 5, 2008, alleging that Lyttle was not a U.S. citizen and requiring him to appear in front of an immigration judge. Ga. Compl. ¶ 62; N.C. Compl. ¶ 64.

On November 6, 2008, defendant Hayes issued a memo (the "Hayes Memo") to ICE field agents requiring that all interviews with detainees making claims of U.S. citizenship be recorded as sworn statements and include probative questions designed to gain information for further investigation. Ga. Compl. ¶¶ 63-72; N.C. Compl. ¶¶ 65-71. Lyttle claims that ICE agents failed to apply the directives of the Hayes Memo during an interview on November 12, 2008, when they again allegedly ignored his assertions of U.S. citizenship and coerced him into signing an affidavit admitting that his name was "Jose Thomas." Ga. Compl. ¶¶ 75-78; N.C. Compl. ¶¶ 72-75.

Lyttle states that, on November 17, 2008, he attempted to commit suicide in his detention cell by ingesting 60 tablets of Glucophage, medication provided as treatment for his type 2 diabetes. Ga. Compl. ¶¶ 79-84; N.C. Compl. ¶ 76. He claims that nobody instructed him as to the proper dosage.[5] Ga. Compl.¶ 81; *cf.* N.C. Compl. ¶ 76.

On December 9, 2008, Immigration Judge William Cassidy ordered that Lyttle be deported to Mexico. Ga. Compl. ¶ 86; N.C. Compl. ¶ 78. Following that order, ICE agents – despite allegedly uncovering even more evidence of Lyttle's U.S. citizenship – issued a "Warrant of Removal." Ga. Compl. ¶¶ 92-93; N.C. Compl. ¶¶ 80-81. On December 18, 2008, ICE transported Lyttle to Hidalgo, Texas, and removed him to Mexico. Ga. Compl. ¶ 101; N.C. Compl. ¶ 90. Lyttle alleges that the actions leading to his removal resulted from unlawful agency policies, patterns, practices, or customs to selectively detain and deport individuals based solely on their perceived race or ethnicity. Ga. Compl. ¶¶ 94-96; N.C. Compl. ¶¶ 82-85.

Lyttle states that he spent the next fourth months in Central America, alternatively homeless, staying in shelters, and imprisoned by national authorities for lack of proper

[5] There appears to be an inconsistency in Lyttle's allegations here: on the one hand, he alleges that he attempted to commit suicide, but on the other hand, he claims that his overdose was due to the negligent care of the defendants. *See* Ga. Compl.¶ 81; N.C. Compl. ¶ 76.

identification. Ga. Compl. ¶ 102; N.C. Compl. ¶ 91. On December 29, 2008, he purportedly tried to re-enter the United States but was detained and subsequently denied entry by ICE agents in Hidalgo, Texas. Ga. Compl. ¶¶ 104-110; N.C. Compl. ¶¶ 93-99. Mexican authorities then deported Lyttle to Honduras, where he was allegedly housed in an immigration camp with criminals and suffered severe physical and mental abuse. Ga. Compl. ¶¶ 112-13; N.C. Compl. ¶¶ 101-02. After his release, he found his way to a U.S. Embassy in Guatemala, where an embassy employee allegedly verified his claim to U.S. citizenship, secured a temporary U.S. passport on his behalf, and arranged for Lyttle's return to the United States. Ga. Compl. ¶¶ 116-17; N.C. Compl. ¶¶ 105-06.

On April 22, 2009, Lyttle flew from Guatemala City to Atlanta, Georgia. Ga. Compl. ¶ 118-119; N.C. Compl. ¶ 107-108. While passing through customs at the Hartsfield-Jackson Atlanta International Airport, federal agents there allegedly detained Lyttle and issued a new "expedited removal" order.[6] Ga. Compl. ¶¶ 119, 125; N.C. Compl. ¶¶ 108, 115. Lyttle claims that these agents again ignored his assertions of citizenship, making no attempt to locate family members or seek independent verification of his U.S. citizenship. Ga. Compl. ¶¶ 119-126; N.C. Compl. ¶¶ 108-115.

After Lyttle's family learned of his detention in Atlanta, they hired an attorney who demanded his release. Ga. Compl. ¶ 127; N.C. Compl. ¶ 116. On April 24, 2009, Lyttle was released from federal custody. Ga. Compl. ¶ 128; N.C. Compl. ¶ 117. Then, on April 28, 2009, the Department of Homeland Security filed a motion seeking to terminate efforts to deport Lyttle. Ga. Compl. ¶ 129; N.C. Compl. ¶ 118.

[6] While both complaints refer to these agents, and defendants Johnston and Keys in particular, as ICE employees, they are in fact employed by the U.S. Customs and Border Protection.

Based on these factual allegations, Lyttle filed suit in the Northern District of Georgia on October 13, 2010, and in the Eastern District of North Carolina on October 15, 2010. In each case, Lyttle has sued the United States under the Federal Tort Claims Act ("FTCA"). Ga. Compl. ¶¶ 172-96; N.C. Compl. ¶¶ 142-60. Lyttle's FTCA claims are nearly identical in both actions, alleging that the United States is liable for federal agents falsely imprisoning him without his consent, negligently failing to properly investigate his claims of citizenship, and causing the intentional infliction of emotional distress. *Id.* Furthermore, Lyttle has sued eleven federal agents in their individual capacity under *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). Ga. Compl. ¶¶ 131-48; N.C. Compl. ¶¶ 121-41. The constitutional claims against the individual Federal defendants are also virtually the same in both actions, alleging that they violated Lyttle's Fifth Amendment rights to due process and equal protection and his Fourth Amendment right to be free from unreasonable seizures. Ga. Compl. ¶¶ 131-148; N.C. Compl. ¶¶ 121-141. While the majority of his claims are against the Federal defendants, Lyttle asserts various civil rights claims under 42 U.S.C. § 1983 and state common law tort claims against CCA, the North Carolina Department of Correction, and unnamed Georgia and North Carolina officials. Ga. Compl. ¶¶ 197-221; N.C. Compl. ¶¶ 161-87.

Just within the last week Lyttle has completed the process of serving the defendants in both actions, and – with the lone exception of CCA – no answers or dispositive motions have yet been filed.[7] Accordingly, the Scheduled Actions are currently at the same early stage of litigation.

[7] On November 10, 2010, CCA filed an answer in the Georgia action. (Doc. No. 12). On November 29, 2010, the Northern District of Georgia granted a consent motion between Lyttle and CCA to postpone additional pretrial deadlines until all parties have filed their initial responsive pleadings. (Doc. No. 24).

ARGUMENT

I. CENTRALIZATION IS APPROPRIATE UNDER 28 U.S.C. § 1407

The Scheduled Actions should be consolidated and transferred for centralized pretrial proceedings. Under 28 U.S.C. § 1407(a), transfer is appropriate where the actions involve common questions of fact. Centralization must also promote the just and efficient conduct of such actions and similarly serve the convenience of all the parties and witnesses. 28 U.S.C. § 1407(a). Consideration of these statutory criteria and other relevant factors decisively favors MDL consolidation here.

A. The Scheduled Actions Involve Abundant Common Questions of Fact

The pending actions involve numerous common questions of fact. Indeed, as summarized above, the factual allegations in each complaint are virtually identical, documenting the chain of events from Lyttle's alleged birth in North Carolina to his re-entry in Atlanta following deportation. With the exception of minor stylistic differences, both complaints describe the same actions, identify the same relevant actors, and provide the same level of detail.[8] Although Lyttle has brought two separate cases – presumably to satisfy venue and personal jurisdiction requirements – the questions of fact remain identical in each instance. These questions involve, but are not limited to: issues surrounding Lyttle's citizenship; Lyttle's mental and cognitive functioning; the alleged actions or omissions of federal government employees and state and local officials; and injuries that Lyttle allegedly suffered.

Because Lyttle's legal claims in the Scheduled Actions are virtually the same, the answers to the numerous common questions of fact will impact, in a like manner, whether Lyttle

[8] Indeed, many of the factual allegations included in the North Carolina complaint repeat – verbatim – the averments made in the Georgia complaint. *Compare, e.g.*, Ga. Compl. ¶¶ 28-34 *with* N.C. Compl. ¶¶ 19-25.

has a viable claim. Put simply, the predominant factual questions are not unique to each separate action. *See In re S. Cent. States Bakery Prods. Antitrust Litig.*, 433 F. Supp. 1127, 1129 (J.P.M.L. 1977) (allegations of an "overall conspiracy" among multidistrict defendants raises common questions of fact that predominate over questions unique to each separate action). Accordingly, centralization is appropriate in light of the factual background common to both cases.[9]

B. Centralization Will Ensure The Just And Efficient Conduct Of The Scheduled Actions And Promote The Convenience Of The Parties

The Panel considers several factors to determine whether consolidation would foster the just and efficient conduct of related actions. These include avoiding inconsistent pretrial rulings, reducing or eliminating duplicative discovery, and conserving the efforts and resources of the parties and witnesses. *In re Iraq and Afghanistan Detainees Litig.*, 374 F. Supp. 2d 1356, 1357 (J.P.M.L. 2005). The interests of all the parties – plaintiffs and defendants alike – are relevant in making this determination. *In re Library Editions of Children's Books*, 297 F. Supp. 385, 386 (J.P.M.L. 1968). Such factors favor centralization here.

First, Lyttle asserts the same FTCA claims against the same defendant – *i.e.*, the United States – in both actions, which could lead to inconsistent rulings if considered by separate courts. *See, e.g., In re Iraq*, 374 F. Supp. 2d at 1357 (allegations that federal officials unconstitutionally authorized a policy to torture terrorist detainees supported centralization to "prevent inconsistent pretrial rulings"). Dispositive and other pretrial motions brought by the United States in each case will require resolution of essentially the same issues of fact and law. The same is true

[9] Because the common questions of fact predominate here, centralization is proper even though there are only two related actions. *U.S. Postal Serv. Privacy Act Litig.*, 545 F. Supp. 2d 1367 (J.P.M.L. 2008) (centralizing two actions pending in two districts); *Am. Family Mut. Ins. Co. Overtime Pay Litig.*, 416 F. Supp. 2d 1346 (J.P.M.L. 2006) (same); *In re GMAC Ins. Mgmt. Corp. Overtime Pay Litig.*, 342 F. Supp. 2d 1357 (J.P.M.L. 2004) (same).

regarding the constitutional claims made against the individual Federal defendants: whether these defendants are entitled to qualified immunity, for example, are dispositive pretrial issues likely to arise in both cases. The answer to those key questions, and others, should be uniform regardless of where the defendants have been sued. Therefore, centralization would eliminate the possibility of inconsistent pretrial rulings with respect to defenses raised by the United States and the individual Federal defendants.

Second, centralization would eliminate the possibility of overlapping discovery. *See, e.g. id.* (allegations against Federal defendants counseled in favor of centralization to "eliminate duplicative discovery"). In the event that the Scheduled Actions proceed beyond the pleadings, there would inevitably be multiple requests for the same documents and depositions of the same witnesses. Such discovery would likely seek information regarding: (1) Lyttle's representations to state and Federal officials concerning his national origin and citizenship; (2) medical records and other information pertinent to Lyttle's alleged mental disabilities; (3) the alleged actions or omissions of federal government employees and state and local officials; and (4) any physical or emotional harm that Lyttle allegedly suffered as a result of defendants' actions. MDL transfer would eliminate duplication of these time-consuming efforts.

Centralization would similarly conserve judicial resources and promote the convenience of all the parties and witnesses. Indeed, it goes against the purpose of § 1407 to require multiple Federal judges to preside over virtually identical claims involving the same factual allegations and legal theories. And it is equally wasteful and inconvenient to require the parties and

witnesses in the Scheduled Actions to respond more than once to the same written discovery or to appear more than once for the same depositions.[10]

Centralization would also benefit Lyttle, as it would be more convenient for him to litigate one, rather than two, suits. Indeed, Lyttle would similarly conserve resources and avoid the burdens of duplicative discovery. MDL transfer thus appears advantageous to all the parties here – not just the Federal defendants.[11] *See In re Library Editions of Children's Books*, 297 F. Supp. at 386.

II. THE SCHEDULED ACTIONS SHOULD BE CENTRALIZED IN THE EASTERN DISTRICT OF NORTH CAROLINA FOR PRETRIAL PROCEEDINGS

The Panel evaluates several factors to determine where centralized pretrial proceedings should take place. These include the place of the alleged tort event and the location of the parties and witnesses. *In re Bomb Disaster at Roseville*, *California, on April 28, 1973*, 399 F. Supp. 1400, 1403 (J.P.M.L. 1975). The Panel also considers whether judges are presently burdened with MDL litigation. *In re Digitek Prods. Liab. Litig.*, 571 F. Supp. 2d 1376, 1377 (J.P.M.L. 2008). Here, it is respectfully submitted that the Scheduled Actions should be centralized in the Eastern District of North Carolina. MDL transfer to the Northern District of Georgia, however, would be inconsistent with these criteria.

[10] Because of the common questions of fact, the testimony of the individual Federal defendants will likely be relevant in both actions – not just the suit where they are actually named as a party.

[11] Absent consolidation, additional inconvenience will inevitably arise from scheduling conflicts among Lyttle, the United States, the eleven individually-named Federal defendants, the Corrections Corporation of America, the North Carolina Department of Correction, the unnamed U.S. Public Health Service officials, the unnamed Georgia officials, and the unnamed North Carolina officials.

A. The Eastern District Of North Carolina Is The Most Appropriate Transferee Venue

The Eastern District of North Carolina is the most logical forum for centralized pretrial proceedings. First, the events giving rise to Lyttle's legal claims began there: Lyttle was initially referred to ICE agents after he was convicted of criminally assaulting a female nurse at the Neuse Correctional Facility in Goldsboro, North Carolina.[12] The ICE agents stationed there allegedly interviewed Lyttle, determined that he was a deportable alien, and detained him for removal proceedings. Ga. Compl. ¶¶ 35-54; N.C. Compl. ¶¶ 26-56. Lyttle was ultimately detained for more than a month in North Carolina. Ga. Compl. ¶ 55; N.C. Compl. ¶ 57. The core of Lyttle's claims in both actions thus stems from these critical events in North Carolina. Because the original decisions to both detain and deport Lyttle occurred there, the Eastern District of North Carolina is the most appropriate forum for centralization.[13] *Cf. In re Radiation Incident at Washington, D.C. on April 5, 1974,* 400 F. Supp. 1404, 1407 (J.P.M.L. 1975) (claims of negligent exposure to ultra-hazardous radiation were centralized in the district where the radioactive material in question had been originally packaged and shipped rather than the district where exposure actually occurred).

Not only is North Carolina at the epicenter of Plaintiff's claims, but it is also a geographically central location for pretrial proceedings. The eleven individual Federal defendants, for example, currently reside in six states: New York, New Jersey, Virginia, North

[12] Goldsboro is located in Wayne County, which is part of the Eastern District of North Carolina. *See* 28 U.S.C. § 113(a).

[13] To be clear, we are not suggesting that the defendants in the North Carolina action are in any way more or less liable than the defendants in the Georgia action. Rather, because the initial detention and recommendation to deport Lyttle occurred in North Carolina, Lyttle's claims against the Georgia defendants in many instances depend upon the alleged actions first taken in North Carolina.

Carolina, Georgia, and Alabama.[14] Given the widespread dispersal of the parties and anticipated witnesses throughout the eastern half of the United States – and predominantly along the East Coast – North Carolina provides a geographically convenient location. *Cf. In re Columbia Univ. Patent Litig.*, 313 F. Supp. 2d 1383 (noting that centralization in Massachusetts would be "convenient" for the litigants since the parties resided in "the eastern part of the United States").

In addition, centralization before Judge Dever – who is presiding over the action pending in the Eastern District of North Carolina – would promote the Panel's goal "to spread the burden of [multidistrict litigation] among districts." *In re Digitek Prods. Liab. Litig.,* 571 F. Supp. 2d 1376, 1377 (J.P.M.L. 2008). There is presently only one MDL docket in the Eastern District, and Judge Dever himself has no MDL litigation before him. *See* United States Judicial Panel on Multidistrict Litigation – Distribution of Pending MDL Dockets as of November 4, 2010, http://www.jpml.uscourts. gov/Pending_MDL_Dockets-November-2010-Modified.pdf ("Distribution of Pending MDL Dockets"). Consequently, centralization of the Scheduled Actions in the Eastern District of North Carolina would be most consistent with the Panel's criteria. *See, e.g., In re Serzone Prods. Liab. Litig.*, 217 F. Supp. 2d 1372, 1374 (J.P.M.L. 2002).[15]

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[14] To defense counsel's knowledge, the current residences of the eleven individual Federal defendants are as follows: Johnston, Moten, Mondragon, and Moore reside in Georgia; Caputo and Kendall reside in North Carolina; Faucette and Keyes reside in Virginia; Hayes resides in New York; Simonse resides in New Jersey; and Collado resides in Alabama.

[15] In the alternative, the Middle District of Georgia may provide a second viable – though less convenient – option for centralization. Many of Lyttle's claims arise from events that allegedly occurred at SDC in Stewart County, which is located in the Middle District of Georgia. *See* 28 U.S.C. § 90(b)(3). It is not, however, the current venue of either suit, and the Panel has repeatedly expressed a preference for transferring related cases to a district where one of the actions is already pending. *See In re Cathode Ray Tube (CRT) Antitrust Litig.*, 536 F. Supp. 2d 1364 (J.P.M.L. 2008). Furthermore, because some of the parties reside as far north as New York, the Middle District of Georgia is not a centrally located venue. Moreover, the SDC is located in the Columbus Division of the Middle District, but Judge Land, the only judge in that

B. The Northern District of Georgia Is Not An Appropriate Transferee District

Although Lyttle has also brought suit in the Northern District of Georgia, that venue is the least connected of any district to the events underlying his claims. Lyttle alleges that he was detained by federal agents at the Hartsfield-Jackson Atlanta International Airport[16] as he attempted to re-enter the United States, but the majority of the factual allegations – *i.e.*, those leading to his arrest, detention, and eventual deportation – occurred in places outside the Northern District of Georgia. *See* Ga. Compl. ¶¶ 35-84; N.C. Compl. ¶¶ 26-76. There are, moreover, five MDL dockets already pending in the Northern District of Georgia. *See* Distribution of Pending MDL Dockets. Centralization there would thus be less consistent with the Panel's criteria.

CONCLUSION

For all of the reasons stated above, the Federal defendants respectfully request that the Panel consolidate the Scheduled Actions in the Eastern District of North Carolina for coordinated and centralized pretrial proceedings.

Division, is currently presiding over two MDL dockets. *See* Distribution of Pending MDL Dockets. The Panel has declined to centralize actions in an otherwise appropriate forum where the judge "already has two current MDLs assigned to him." *In re Hawaiian and Guamanian Cabotage Antitrust Litig.*, 571 F. Supp. 2d 1379, 1380 (J.P.M.L. 2008).

[16] Atlanta is located in Fulton County, which is part of the Northern District of Georgia. *See* 28 U.S.C. § 90(a)(2).

Respectfully submitted this 23rd day of December 2010,

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