

FILED
10/2/2019
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT
KP

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: FAIRLIFE MILK PRODUCTS MARKETING
AND SALES PRACTICES LITIGATION

MDL No. 2909

TRANSFER ORDER

Before the Panel: Plaintiff in the Northern District of Georgia *Salzhauer* action moves under 28 U.S.C. § 1407 to centralize pretrial proceedings in the actions listed on Schedule A in the Northern District of Georgia or, alternatively, the Northern District of Illinois. This litigation consists of four putative class actions, two of which are pending in the Northern District of Illinois and one each in the Northern District of Georgia and the Northern District of Indiana. Additionally, the parties have notified the Panel of four potentially related actions pending in the Central District of California, the Southern District of Indiana, and the District of Massachusetts.¹

Plaintiffs in the Indiana action support centralization, but in the Northern District of Indiana. Defendants fairlife, LLC,² Mike McCloskey, and Sue McCloskey support centralization in either the Northern District of Illinois or the Northern District of Georgia, while Defendant Coca-Cola Company supports centralization only in the Northern District of Illinois. Plaintiffs in the two Illinois actions initially opposed centralization but at oral argument expressed support for centralization in the Northern District of Illinois.³

On the basis of the papers filed and hearing session held, we find that the actions listed on Schedule A involve common questions of fact, and that centralization in the Northern District of Illinois will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share factual questions arising from allegations of animal cruelty at a farm in northern Indiana that provides milk used in fairlife's milk products. Plaintiffs in each action allege that they purchased fairlife milk products based on defendants' marketing and labeling, which emphasized fairlife's humane treatment of its dairy cows. Plaintiffs in each action assert similar claims for fraud, unjust enrichment, and violation of state consumer protection laws, and plaintiffs seek to represent overlapping national and state classes of purchasers of fairlife milk

¹ These and any other related actions are potential tag-along actions. *See* Panel Rules 1.1(h), 7.1, and 7.2.

² Defendant fairlife, LLC, does not capitalize its corporate name.

³ A response by one of the potential tag-along plaintiffs was submitted after the close of briefing and was not considered by the Panel. *See* Notice of Major Deficiency, MDL No. 2909 (J.P.M.L. Sept. 26, 2019), ECF No. 43.

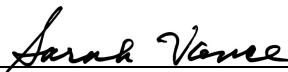
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products. Centralization thus will eliminate duplicative discovery; prevent inconsistent pretrial rulings, particularly with respect to class certification; and conserve the resources of the parties, their counsel, and the judiciary.

The Northern District of Illinois is an appropriate transferee district for this litigation. This district has a strong connection to these cases. Defendant fairlife is headquartered in Chicago, and its marketing decisions for the subject milk products likely were conceived and executed there. Moreover, Chicago is less than one hundred miles from Fair Oaks, Indiana, where the farm at which the alleged animal abuse occurred is located. Two of the four actions on this motion are pending in the Northern District of Illinois, which is supported by a majority of the parties as either their primary or secondary choice for transferee district. The Northern District of Illinois thus presents a convenient and accessible forum for this litigation. Both of the actions in this district are assigned to the Honorable Robert M. Dow, Jr., a jurist with significant multidistrict litigation experience. We are confident that Judge Dow will steer this litigation on an efficient and prudent course.

IT IS THEREFORE ORDERED that the actions listed on Schedule A and pending outside the Northern District of Illinois are transferred to the Northern District of Illinois and, with the consent of that court, assigned to the Honorable Robert M. Dow, Jr., for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Lewis A. Kaplan
R. David Proctor
Karen K. Caldwell

Ellen Segal Huvelle
Catherine D. Perry
Nathaniel M. Gorton

**IN RE: FAIRLIFE MILK PRODUCTS MARKETING
AND SALES PRACTICES LITIGATION**

MDL No. 2909

SCHEDULE A

Northern District of Georgia

SALZHAUER v. THE COCA-COLA COMPANY, ET AL., C.A. No. 1:19-02709

Northern District of Illinois

MICHAEL v. FAIRLIFE, LLC, ET AL., C.A. No. 1:19-03924
SCHWARTZ, ET AL. v. FAIRLIFE, LLC, C.A. No. 1:19-03929

Northern District of Indiana

SABEEHULLAH, ET AL. v. FAIRLIFE LLC, ET AL., C.A. No. 2:19-00222