

MDL 1897

UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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on
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Dec 18, 2007

FILED
CLERK'S OFFICE

**IN RE: MATTEL, INC., TOY LEAD PAINT
PRODUCTS LIABILITY LITIGATION**

MDL No. 1897

TRANSFER ORDER

Before the entire Panel^{*}: Defendants Mattel, Inc. (Mattel) and Fisher-Price, Inc., and plaintiffs in three actions have moved, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of this litigation in the Central District of California. Plaintiffs in the District of South Carolina action support centralization, but suggest the District of South Carolina as transferee district. Plaintiffs in the Southern District of New York actions support centralization, but suggest the Southern District of New York as transferee district. Plaintiff in the Eastern District of Pennsylvania *Monroe* action opposes the inclusion of her action in MDL No. 1897 proceedings.

This litigation currently consists of eleven actions listed on Schedule A and pending in five districts as follows: five actions in the Central District of California; two actions each in the Southern District of New York and the Eastern District of Pennsylvania; and one action each in the Southern District of Indiana and the District of South Carolina.¹

On the basis of the papers filed and hearing session held, we find that these eleven actions involve common questions of fact, and that centralization under Section 1407 in the Central District of California will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. All actions share questions of fact relating to the production of defendants' toys in China with surface paints that allegedly contain elevated levels of lead and the sale of those toys in the United States. Centralization under Section 1407 will eliminate duplicative discovery; prevent inconsistent pretrial rulings, especially with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary.

The Eastern District of Pennsylvania *Monroe* plaintiff argues that inclusion of her action is not appropriate, because, *inter alia*, her action seeks only medical monitoring. We respectfully disagree. Like *Monroe*, most of the actions before us seek medical monitoring. Centralization under Section 1407 has the salutary effect of placing all actions in this docket before a single judge who can formulate a pretrial program that ensures streamlined resolution of all actions to the overall

^{*} Judge Scirica did not participate in the decision of this matter.

¹ The Panel has been notified that seven other related actions have been filed, five in the Central District of California, and one each in the Northern District of California and the District of Columbia. These actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

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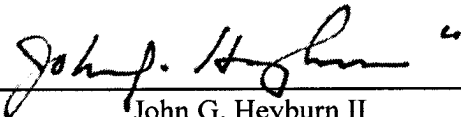
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benefit of the parties and the judiciary.

We are persuaded that the Central District of California is an appropriate transferee forum for this litigation. The first-filed action is pending there. In addition, because defendant Mattel is headquartered within this district, relevant documents and witnesses may be found in the Los Angeles vicinity.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Central District of California are transferred to the Central District of California and, with the consent of that court, assigned to the Honorable Dale S. Fischer for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



John G. Heyburn II
Chairman

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Robert L. Miller, Jr.
David R. Hansen

J. Frederick Motz
Kathryn H. Vratil
Anthony J. Scirica*

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SCHEDULE A

Central District of California

Ann L. Mayhew, etc. v. Mattel, Inc., et al., C.A. No. 2:07-5126
Nicole B. White, et al. v. Mattel, Inc., et al., C.A. No. 2:07-5366
Adam Luttenberger, etc. v. Mattel, Inc., et al., C.A. No. 2:07-5539
Heather Davis Puerzer, et al. v. Mattel, Inc., et al., C.A. No. 2:07-5661
Nisha Shah v. Fisher-Price, Inc., et al., C.A. No. 2:07-5960

Southern District of Indiana

Steve Sarjent, et al. v. Fisher-Price, Inc., et al., C.A. No. 1:07-1060

Southern District of New York

Farrah Shoukry v. Fisher-Price, Inc., et al., C.A. No. 1:07-7182
Seth Goldman v. Fisher-Price, Inc., et al., C.A. No. 1:07-7764

Eastern District of Pennsylvania

Nydia Monroe, etc. v. Mattel, Inc., C.A. No. 2:07-3410
Jacob Chow, et al. v. Mattel, Inc., et al., C.A. No. 2:07-3741

District of South Carolina

Daniel S. Hughey, et al. v. Fisher-Price, Inc., et al., C.A. No. 2:07-2930