

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: NATIONAL FOOTBALL LEAGUE
PLAYERS' CONCUSSION INJURY LITIGATION**

MDL No. 2323

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiffs in six actions listed on Schedule A move to vacate our orders that conditionally transferred their respective actions to MDL No. 2323. Defendants National Football League, Inc. and NFL Properties, LLC (together, the "NFL") oppose the motion to vacate.

The actions comprising MDL No. 2323 involve allegations that the NFL is liable for injuries sustained while plaintiffs were playing professional football, including damages resulting from the permanent long-term effects of concussions. In general, plaintiffs allege that the NFL failed to warn and protect NFL players against the long-term brain injury risks associated with football-related concussions and failed to regulate the sport so as to minimize the risk of such long-term injuries. *See In re: Nat'l Football League Players' Concussion Injury Litig.*, 842 F. Supp. 2d 1378 (J.P.M.L. 2012). Plaintiffs argue that the actions before the Panel are not appropriate for inclusion in MDL No. 2323 because federal subject matter jurisdiction is lacking and because transfer would unduly prejudice plaintiffs.

After considering all argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2323, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Like the MDL No. 2323 actions, these actions involve allegations that defendants are liable for, *inter alia*, failing to warn and protect players from the long-term risk of concussions and sub-concussive injuries. The Panel often has held that jurisdictional issues do not present an impediment to transfer.¹ *See, e.g., In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001). The jurisdictional issues presented by plaintiffs are also implicated in the NFL's motion to dismiss in MDL No. 2323. Transfer will allow a single court to efficiently and consistently address these issues.

* Judge Lewis A. Kaplan, and Judge Marjorie O. Rendell took no part in the decision of this matter.

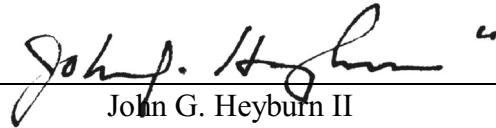
¹ Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand or other motion is filed and the date the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time to do so.

-2-

The Panel repeatedly has held that, while it might inconvenience some parties, transfer of a particular action often is necessary to further the expeditious resolution of the litigation taken as a whole. *See, e.g., In re: Crown Life Ins. Co. Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001). Plaintiffs' concerns regarding the preservation of evidence can be addressed to the transferee court.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Pennsylvania and, with the consent of that court, assigned to the Honorable Anita B. Brody for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is written over a horizontal line. The signature is cursive and includes a small mark at the end.

John G. Heyburn II
Chairman

Kathryn H. Vratil
Paul J. Barbadoro

W. Royal Furgeson, Jr.
Charles R. Breyer

**IN RE: NATIONAL FOOTBALL LEAGUE
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MDL No. 2323

SCHEDULE A

Southern District of New York

Archie Matsos v. The National Football League, et al., C.A. No. 1:13-01063
Ross C. Hawkins v. The National Football League, et al., C.A. No. 1:13-01067
William Thomas (Tom) Bettis v. The National Football League, et al., C.A. No. 1:13-01069
Donna Perry v. The National Football League, et al., C.A. No. 1:13-01072
Scott Gilchrist v. The National Football League, et al., C.A. No. 1:13-01074
William D. Quinlan, et al. v. The National Football League, et al., C.A. No. 1:13-01100