

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: CONCRETE AND CEMENT
ADDITIVES ANTITRUST LITIGATION**

MDL No. 3097

TRANSFER ORDER

Before the Panel: * Plaintiff SMBA Construction, LLC, moves under 28 U.S.C. § 1407 to centralize this antitrust litigation involving the pricing of concrete and cement additives and admixtures in the Southern District of New York. This litigation consists of five actions pending in two districts, as listed on Schedule A. In addition, the parties have informed the Panel of ten related actions pending in six districts.¹

All responding parties support centralization, but differ as to the proposed transferee forum. Defendants² support centralization in the Southern District of New York. Plaintiffs in seven Eastern District of Pennsylvania cases, District of Minnesota tag-along plaintiff Park Construction Co., and Southern District of Mississippi tag-along plaintiff Jon Tate Construction, LLC, support centralization in the Eastern District of Pennsylvania. Eastern District of Pennsylvania plaintiff Vera Construction alternatively does not oppose a Southern District of New York transferee forum.

On the basis of the papers filed and the hearing session held, we find that the actions listed on Schedule A involve common questions of fact, and that centralization in the Southern District of New York 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 an alleged price-fixing conspiracy among suppliers of concrete and cement additives (CCAs)—which are added to concrete, cement, and mortar before or during the aggregate’s mixing with water in order

* Judge Nathaniel M. Gorton did not participate in the decision of this matter.

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

² Sika AG, Sika Corporation; Chryso, Inc.; GCP Applied Technologies, Inc.; Compagnie De Saint-Gobain S.A.; Saint-Gobain North America; Master Builders Solutions Admixtures U.S., LLC; Master Builders Solutions Deutschland GmbH; Cinven Ltd.; Cinven, Inc.; The Euclid Chemical Company; and RPM International Inc. Defendants note that there is no Saint-Gobain corporate entity named “Saint-Gobain North America,” but included it in the list of entities defined as “Defendants” for the sake of clarity because plaintiffs in some cases have alleged it to be a corporate entity.

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to give the finished product certain qualities, such as reducing the amount of water needed for the aggregate to set, reducing (or increasing) set time, reducing shrinkage, stabilizing or preventing cracking, and inhibiting corrosion. All actions propose overlapping putative classes of direct and indirect purchasers of CCAs. Centralization will eliminate duplicative discovery, which will be international in scope; prevent inconsistent pretrial rulings, particularly as to class certification; and conserve the resources of the parties, their counsel, and the judiciary.

The Southern District of New York is an appropriate transferee district for this litigation. Several plaintiffs and defendants propose centralization in this district. The Southern District of New York presents a convenient and accessible venue for this nationwide litigation, and it is geographically central to the involved domestic and international parties. Relevant documents and witnesses may be found in or near the Southern District of New York, inasmuch as two domestic defendants are based in New York (Cinven, Inc.) and New Jersey (Sika Corp.) and several plaintiffs are based there or nearby. Further, centralization in this district permits the Panel to assign this litigation to a judge who has not yet overseen a multidistrict litigation docket. Accordingly, we assign this action to the Honorable Lewis J. Liman, who we are confident will steer this litigation on a prudent and expeditious course.

IT IS THEREFORE ORDERED that the actions listed on Schedule A and pending outside the Southern District of New York are transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Lewis J. Liman for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Karen K. Caldwell
Chair

Matthew F. Kennelly
Roger T. Benitez
Madeline Cox Arleo

David C. Norton
Dale A. Kimball

**IN RE: CONCRETE AND CEMENT
ADDITIVES ANTITRUST LITIGATION**

MDL No. 3097

SCHEDULE A

Southern District of New York

SMBA CONSTRUCTION, LLC v. SIKA CORPORATION, ET AL.,
C.A. No. 1:23-10875

Eastern District of Pennsylvania

M&D PETERSON, LLC v. SIKA AG, ET AL., C.A. No. 2:23-04711
KEYSTONE CONCRETE BLOCK & SUPPLY CO., INC. v. SIKA AG, ET AL.,
C.A. No. 2:23-04723
LAKEWOOD CONCRETE CORP. v. SIKA AG, ET AL., C.A. No. 2:23-04797
570 CONCRETE, LLC v. SIKA AG, ET AL., C.A. No. 2:23-04845