

**BEFORE THE
UNITED STATES JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

**In re Chrysler Pacifica Fire Recall
Litigation**

MDL No.

**BRIEF IN SUPPORT OF PLAINTIFF SCOTT OLSEN'S MOTION TO TRANSFER
ACTIONS TO THE NORTHERN DISTRICT OF CALIFORNIA OR CENTRAL
DISTRICT OF CALIFORNIA PURSUANT TO 28 U.S.C. § 1407 FOR COORDINATED
OR CONSOLIDATED PRETRIAL PROCEEDINGS**

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Pursuant to 28 U.S.C. § 1407 and Rule 6.2 of Judicial Panel on Multidistrict Litigation (“JPML”) Rules of Procedure, plaintiff Scott Olsen in the proposed class action *Olsen v. Fiat Chrysler Automobiles (FCA) US, LLC*, No. 3:22-cv-00368-TWR-NLS (S.D. Cal.), respectfully moves for an order transferring the seven putative class actions listed on the attached Schedule of Actions (the “Related Actions”), as well as any tag-along actions or other cases that may be filed asserting related or similar claims, to either the Northern District of California (San Jose Division) before the Honorable Edward J. Davila for coordinated or consolidated pretrial proceedings or to the Central District of California (Santa Ana) before the Honorable Cormac J. Carney.

I. FACTUAL BACKGROUND AND OVERVIEW OF THE RELATED ACTIONS

The Related Actions presently consist of seven putative class actions against Fiat Chrysler Automobiles (FCA) US, LLC (“Chrysler”), brought by forty-six named Plaintiffs in four different districts. There is the *Olsen* action in the Southern District of California; the *Reilman* action in the Central District of California; the *Gomez* and *Lawrence* actions in the Northern District of California; and the *Huntington*, *Schumann* and *Findeiss* actions in the Eastern District of Michigan. *See* Schedule of Actions. The Related Actions are brought by a number of different law firms.¹ As explained below, the Related Actions involve common questions of fact, assert overlapping claims and legal theories, seek similar relief, propose similar class definitions, and are all in preliminary procedural postures.

¹ Plaintiffs’ counsel in each of the Related Actions is as follows: *Scott A. Olsen v. Fiat Chrysler Automobiles (FCA) US, LLC*, No. 3:22-cv-00368 (S.D. Cal.) (Cotchett, Pitre & McCarthy, LLP); *Rodrigo Nieto Gomez v. FCA US LLC*, No. 3:22-cv-2171 (N.D. Cal.) (Casey, Gerry, Schenk, Francavilla, Blatt & Penfield, LLP); *Robyn Reilman v. FCA US, LLC*, No. 8:22-cv-00811 (C.D. Cal.) (Bottini & Bottini, Inc.); *David Lawrence v. Fiat Chrysler Automobiles FCA US, LLC*, No. 3:22-cv-02372 (N.D. Cal.) (Law Office of Joseph M. Goethals); *Meagan Findeiss et al. v. FCA US LLC*, No. 4:22-cv-10850 (E.D. Mich.) (The Miller Law Firm PC; Barrack, Rodos, & Bacine; Emerson Firm PLLC); *Kent Schuman et al. v. FCA US LLC*, 4:22-cv-10771 (E.D. Mich.) (Hagens Berman Sobol Shapiro LLP; The Miller Law Firm PC); *Lauren Huntington et al. v. FCA US LLC*, No. 2:22-cv-10508 (E.D. Mich.) (Hagens Berman Sobol Shapiro LLP; The Miller Law Firm PC).

A. Common Questions of Fact

At issue is Chrysler's failure to disclose a uniform and widespread defect causing its 2017 to 2018 Chrysler Pacifica Plug-in Hybrid Electric Vehicles ("PHEVs" or "Class Vehicles") to explode and catch fire. Worse yet, Chrysler admits the root cause of these fires is unknown, and no remedy exists to date. Chrysler has asked owners of the Class Vehicle to abstain from plugging in their minivans and to abstain from parking near buildings and other cars after its internal investigation uncovering twelve (12) fires among the Class Vehicles.

The Class Vehicles are the 2017 and 2018 models of the Chrysler Pacifica PHEVs. The Class Vehicles are at risk of exploding or catching fire due to an unknown root cause, resulting in an immediate risk to the vehicles' occupants or the property surrounding the vehicles.

On February 11, 2022, after receiving numerous complaints regarding Class Vehicle fires, Chrysler issued Recall No. 22V-077 (hereinafter, the "Recall" or "Chrysler Recall") for the Class Vehicles.²

The Chrysler Recall admits that Chrysler has no remedy at the moment for the Class Vehicles: "FCA US will conduct a voluntary safety recall on all affected vehicles. Remedy is under development. Until further notice, the Company is advising owners of these hybrid vehicles to refrain from recharging them, and to park them away from structures and other vehicles." The Recall report states that, "Remedy is under development. Root cause is unknown."³

As a result, Class Vehicle owners and lessees have been burdened with vehicles that do not perform as advertised and **cannot be safely parked like other cars**. Due to the undisclosed defect, Plaintiffs and Class Members were deprived the benefit of their bargain in purchasing or leasing their Class Vehicles. Further, Plaintiffs and Class Members suffered an ascertainable loss of money, property, and/or value of their Class Vehicles.

Plaintiffs in the Related Actions are all consumers who purchased Class Vehicles and received the February 11, 2022 recall notice. *See* Ex. 2 (*Olsen* Compl.) ¶¶ 5, 11-12, 25, 56-58; Ex. 3 (*Gomez* Compl.) ¶¶ 1, 9, 15; Ex. 4 (*Reilman* Compl.) ¶ 2; Ex. 5 (*Lawrence* Compl.) ¶¶ 5,

² NHTSA, Part 573 Safety Recall Report 22V-077 (February 11, 2022) [hereinafter **Exhibit 1**].

³ *Id.* at 3.

50; Ex. 6 (*Findeiss* Compl.) ¶¶ 6, 12, 67; Ex. 7 (*Schuman* Compl.) ¶¶ 71; Ex. 8 (*Huntington* Compl.) ¶¶ 59. This is a massive problem directly affecting the owners of the 16,741 Class Vehicles sold in the United States.⁴

Plaintiffs in all the Related Actions allege that the defect was unexpected given Chrysler's widespread representations that the Class Vehicles would be safe. *See* Ex. 2 (*Olsen* Compl.) ¶¶ 34-41, 45; Ex. 3 (*Gomez* Compl.) ¶¶ 28-31; Ex. 4 (*Reilman* Compl.) ¶¶ 15-16, 24-26; Ex. 5 (*Lawrence* Compl.) ¶¶ 34-41; Ex. 6 (*Findeiss* Compl.) ¶¶ 13, 53-59; Ex. 7 (*Schuman* Compl.) ¶¶ 26, 28-39; Ex. 8 (*Huntington* Compl.) ¶¶ 28, 30-37, 40.

Plaintiffs further allege that the defect poses a significant safety risk to Class Vehicle Owners and Lessees. *See* Ex. 2 (*Olsen* Compl.) ¶¶ 42-49; Ex. 3 (*Gomez* Compl.) ¶¶ 1-7; Ex. 4 (*Reilman* Compl.) ¶¶ 2, 11, 21, 27, 30; Ex. 5 (*Lawrence* Compl.) ¶¶ 3-4, 12, 31, 42-50; Ex. 6 (*Findeiss* Compl.) ¶¶ 12-13, 16, 63, 67, 69; Ex. 7 (*Schuman* Compl.) ¶¶ 6, 13, 76-79; Ex. 8 (*Huntington* Compl.) ¶¶ 4-5, 64-67.

B. Common Claims, Legal Theories, and Relief Sought

All seven Related Actions assert similar claims, with some variability based on specific state-specific claims: All seven Related Actions assert breach of implied warranty under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2303 *et seq.*; six of the seven actions assert violations of the Song-Beverly Consumer Warranty Act for breach of implied warranties under California Civil Code § 1790 *et seq.*; four of the seven actions assert violations of the California Business & Professions Code Sections 17200, *et seq.* (Unfair Business Practices Act); four of the seven actions assert violations of the California Business & Professions Code Sections 17500, *et seq.* (False Advertising Law); four of the seven actions assert violations of the California Civil Code Sections 1750, *et seq.* (Consumer Legal Remedies Act); four of the seven actions assert fraud and deceit; four of the seven actions assert negligent misrepresentation; five of the seven actions assert negligence; four of the seven actions assert breach of express written warranties;

⁴ Ewing, Steven. "Chrysler Pacifica Hybrid Recalled Due to Fire Risk." *Roadshow*, CNET, 14 Feb. 2022, <https://www.cnet.com/roadshow/news/chrysler-pacifica-hybrid-minivan-fire-recall/>. (Last accessed: March 17, 2022).

all seven of the Related Actions assert breach of implied warranty of merchantability; and all seven of the Related Actions assert unjust enrichment.

For relief, Plaintiffs in the Related Actions seek, *inter alia*, actual, general and special, incidental, compensatory, consequential damages, restitution and/or disgorgement; punitive damages; prejudgment and post-judgment interest; and attorneys' fees/costs. Most of the cases also seek injunctive relief.

As suggested by the nature of the allegations and the size of the putative class, the Related Actions will involve complex and voluminous electronic discovery. This will include, *inter alia*, discovery and analysis of Chrysler's knowledge of the safety risk that the Class Vehicles have posed to Plaintiffs and Class Members, including when it discovered pertinent facts; discovery and analysis of the extent to which Chrysler marketed its Class Vehicles as safe and family friendly; as well as discovery and analysis as to the defect causing fires in the Class Vehicles. Should the cases remain in separate districts, there will inevitably be duplicative motions, depositions, and production of documents.

C. Similar Class Definitions

The proposed class definitions in the Related Actions substantially overlap and are largely similar, with all Related Actions asserting nationwide classes plus one or more state-specific classes. *Compare, e.g.,* Ex. 2 (*Olsen* Compl.) ¶ 56 (“All owners of Class Vehicles who purchased or leased their vehicles in the United States”), *and* Ex. 4 (*Reilman* Compl.) ¶ 32 (same); Ex. 3 (*Gomez* Compl.) ¶ 40 (“All persons in the United States who purchased or leased a Class Vehicle for personal use and not for resale.”); Ex. 5 (*Lawrence* Compl.) ¶ 56 (“All owners of Class Vehicles who purchased or leased their vehicles in the United States. Excluded from the above class is Defendant, its officers, directors and employees, and any entity in which Defendant has a controlling interest, the agents, affiliates, legal representatives, heirs, attorneys at law, attorneys in fact or assignees thereof, and the Court.”); Ex. 8 (*Huntington* Compl.) ¶ 89 (“All persons or entities who purchased or leased one or more model year 2017-2018 Chrysler Pacifica Hybrid minivans (the “Affected Vehicles”).”); Ex. 7 (*Schumann* Compl.) ¶ 77 (identical

to *Huntington*).”); Ex. 6 (*Findeiss* Compl.) ¶ 80 (Same, except word “defective” used instead of “affected”).⁵

D. Similar Procedural Postures

Finally, all the Related Actions are in similarly preliminary procedural postures. The Related Actions were filed in March and April 2022. No responsive pleadings or dispositive motions have been filed in any of the Related Actions. No discovery has been conducted in any of the Related Actions.

The largest number of cases have been filed in California (4 of 7 actions), with two filed in the Northern District, one in the Southern District and one in the Central District of California. In California one case is assigned to Judge Cormac C. Carney (Central District, Southern Division), one case is assigned to Judge Edward J. Davila (Northern District), one case is assigned to Judge Joseph C. Spero (Northern District), and one case is assigned to Judge Todd W. Robinson (Southern District). Three of the seven cases have been filed in the Eastern District of Michigan and are assigned to Judge Shalina D. Kumar.

II. ARGUMENT

As set forth below, the JPML should grant this motion to transfer the Related Actions, and any similar tag-along actions that may be filed, to either the Northern District of California (San Jose Division) before the Honorable Edward J. Davila for coordinated or consolidated pretrial proceedings or to the Central District of California (Santa Ana) before the Honorable Cormac J. Carney for consolidated or coordinated pretrial proceedings. The Related Actions are complex and involve common facts, claims, legal theories, relief sought, and overlapping proposed class definitions. Similar issues will necessarily arise in each of the Related Actions, which will benefit significantly from pretrial consolidation or coordination. Both the Northern District of California and the Central District of California have the technology and ability to handle complex class actions, and both Judge Davila and Judge Carney have previously presided

⁵ *Huntington*, *Schumann* and *Findeiss* were filed by interlocking firms. *Huntington* and *Schumann* were filed by Hagens, Berman, Sobol & Shapiro, LLP and the Miller Law Firm as co-counsel, whereas *Findeiss* was filed by the Miller Law Firm with Barrack, Rodos & Bacine, and the Emerson Firm as co-counsel. (The Miller Firm being in all three cases and Hagens Berman in two of the three cases.)

over MDL matters, and are more than qualified to handle the proceedings.⁶ Finally, either the Northern District of California (San Jose) or the Central District of California (Santa Ana) would be convenient locations for Plaintiffs and Chrysler to consolidate or coordinate pretrial proceedings because more than half of the Related Actions are pending in California and Chrysler has admitted that “[f]orty percent of all hybrids are sold in the State of California—it’s also the biggest minivan market in the country.” Ex. 2 (*Olsen* Compl.) ¶ 40,⁷ citing, “Chrysler Brand Launches California-Specific Multimedia Marketing Campaign for Chrysler Pacifica Plug-in Hybrid Minivan.”⁸ As further noted in *Olsen*, Chrysler labeled the Class Vehicles the “Official Vehicle for California” and rolled out an advertising campaign with California imagery including the state bird, state animal, state reptile and even the state rock. *Id.*

A. The Related Actions Should Be Transferred and Centralized for Consolidated or Coordinated Pretrial Proceedings.

The “basic purpose” of multidistrict litigation is to secure the “just, speedy and inexpensive determination of every action.” *In re Nat’l Student Mktg. Litig.*, 368 F. Supp. 1311, 1316 (J.P.M.L. 1972). Section 1407 permits transfer and centralization of cases that are pending in different districts if (1) the cases involve “one or more common questions of fact”; (2) transfer

⁶ Judge Davila presided over *In re: Facebook Internet Tracking Litig.*, 844 F. Supp. 2d 1374 (U.S. Jud. Pan. Mult. Lit. 2012) and *In re Apple Inc. Device Performance Litig.*, 291 F. Supp. 3d 1371 (U.S. Jud. Pan. Mult. Lit. 2018); and has one pending MDL in *In re Apple Inc. App Store Simulated Casino-Style Games Litig.*, 532 F. Supp. 3d 1409 (U.S. Jud. Pan. Mult. Lit. 2021); see also *In re Google Play Store Simulated Casino-Style Games Litig.*, 544 F. Supp. 3d 1364 (U.S. Jud. Pan. Mult. Lit. 2021 (expanding Apple MDL and transferring additional cases). Judge Carney has presided over *In re Halftone Color Separations ('809) Pat. Litig.*, 547 F. Supp. 2d 1383, 1384 (U.S. Jud. Pan. Mult. Lit. 2008); *In re: Toyota Motor Corp. Hybrid Brake Mktg., Sales Pracs., & Prod. Liab. Litig.*, 732 F. Supp. 2d 1375, 1376 (U.S. Jud. Pan. Mult. Lit. 2010); *In re Wesson Oil Mktg. & Sales Practice Litig.*, MDL No. 2291, Dkt. 36 (Feb. 1, 2018).

⁷ See also, Ex. 6 (*Findeiss* Compl.) ¶ 58 (“FCA’s marketing campaign was especially prominent with respect to California consumers where it is estimated that 40% of all hybrids are sold in the State of California – the biggest minivan market in the country. FCA boasted that the Chrysler Pacifica hybrid is the “official family vehicle for California,” according to Tim Kuniskis of FCA.); Ex. 4 (*Reilman* Compl.) ¶¶ 8, 26; Ex. 5 (*Lawrence* Compl.) ¶¶ 9, 40.

⁸ Chrysler Brand Launches California-Specific Multimedia Marketing Campaign for Chrysler Pacifica Plug-in Hybrid Minivan, 26 June 2018, <https://www.prnewswire.com/news-releases/chrysler-brand-launches-california-specific-multimediamarketing-campaign-for-chrysler-pacifica-plug-in-hybrid-minivan-300534089.html>. (Last accessed: March 17, 2022).

and centralization “will promote the just and efficient conduct of such actions”; and (3) transfer and centralization will further the “convenience of parties and witnesses.” 28 U.S.C. § 1407(a). The aim of § 1407 is to “eliminate duplication in discovery, avoid conflicting rulings and schedules, reduce litigation cost, and save the time and effort of the parties, the attorneys, the witnesses, and the courts.” *Gelboim v. Bank of America Corp.*, 574 U.S. 405, 410 (2015) (quoting Manual for Complex Litigation § 20.131 (4th ed. 2004)). Transfer of the Related Actions for consolidated or coordinated pretrial proceedings will satisfy each of these requirements and will advance § 1407’s underlying objectives.

1. Transfer is appropriate because the Related Actions involve complex common questions of fact and law.

The JPML has consistently held that cases involving overlapping complex factual and legal issues are particularly appropriate for transfer and centralization for consolidated or coordinated pretrial proceedings—even if the parties and claims are not identical, or if there are differing legal theories or remedies sought. *See, e.g., In re McKinsey & Co., Inc. Nat’l Prescription Opiate Consult. Litig.*, 543 F. Supp. 3d 1377, 1378–79 (J.P.M.L. 2021) (centralizing actions involving different parties, classes, and legal theories because all “actions involve common factual issues arising from nearly identical questions about McKinsey’s role in providing advice to certain opioid manufacturers”); *In re SoClean, Inc. Mktg. & Sales Practices Prods. Liability Litig.*, MDL No. 3021, 2022 WL 303561 (J.P.M.L. Feb. 2, 2022) (centralizing “various putative statewide class actions, asserting product liability and consumer protection claims, and seeking damages for personal injuries, economic loss, and medical monitoring” because “[a]ll actions share common questions of fact arising from allegations that ozone sanitizing devices sold by SoClean pose potential health hazards to users and cause damage to foam and other components in CPAP machines.”); *In re Philips Recalled Cpap, Bi-Level Pap, and Mech. Ventilator Prods. Liability Litig.*, 2021 WL 4704801, at *1–*2 (J.P.M.L. Oct. 8, 2021) (centralizing “putative consumer class actions asserting overlapping claims for violations of state consumer protection statutes, breach of warranties, and unjust enrichment” because all of the actions “will raise similar factual questions regarding the recalled devices and the conduct of

the recall”); *In re Bank of N.Y. Mellon Corp. Foreign Exch. Transactions Litig.*, 857 F. Supp. 2d 1371, 1373 (J.P.M.L. 2012) (finding transfer appropriate notwithstanding different parties and legal theories because “[a]ll actions share factual issues arising from allegations concerning BNY Mellon’s provision of foreign exchange [] services to its clients”); *In re Ford Motor Co. Speed Control Deactivation Switch Prods. Liab. Litig.*, 398 F. Supp. 2d 1365, 1367 (J.P.M.L. 2005) (holding that the “presence of differing theories or remedies is outweighed when the underlying actions still arise from a common factual core, as the actions do here”); *In re Radiation Incident at Washington*, 400 F. Supp. 1404, 1405 (J.P.M.L. 1975) (holding that six actions in two federal districts should be centralized into a single MDL because there were common questions of fact, notwithstanding that factual questions relating to damages were unique to each action); *In re Multidistrict Private Civil Treble Damage Litig. Involving Plumbing Fixtures*, 308 F. Supp. 242, 244 (J.P.M.L. 1970) (noting that the “potential for conflicting or overlapping class actions presents one of the strongest reasons for transferring [] related actions to a single district for coordinated or consolidated pretrial proceedings which will include an early resolution of such potential conflicts”).

Here, the Related Actions are putative class actions that arise from a common factual core, are all brought against the same defendant, and share common legal claims and issues. Specifically, the Plaintiffs in the Related Actions all allege that Chrysler warranted that the Class Vehicles were free from defect, of merchantable quality and fit for their ordinary and represented use, but breached that warranty by selling minivans that are prone to catching fire, cannot be safely plugged in, and cannot be safely parked near structures or other cars.

The Plaintiffs’ allegations in each Related Action arise from common factual issues concerning Chrysler’s conduct, policies, and procedures related to the manufacture and sale of the Class Vehicles. The Related Actions contend that Chrysler’s conduct violated applicable federal and state statutes; and Chrysler committed these violations at least negligently. Each Related Action also contends that all Rule 23 class certification requirements have been met. Resolution of these common factual and legal issues in the Related Actions will necessarily rely upon common evidence. If the Related Actions are litigated in separate forums, it will lead to

duplicative discovery and motion practice and will likely result in conflicting pretrial rulings, particularly with regard to class certification. The Related Actions should therefore be transferred to a central forum for consolidated or coordinated pretrial proceedings, so that the complex issues in this litigation can be addressed efficiently and adjudicated consistently.

2. Transfer and centralization will promote the just and efficient conduct of the Related Actions.

Section 1407's "remedial aim is to eliminate the potential for conflicting contemporaneous pretrial rulings by coordinate [sic] district and appellate courts in multidistrict related civil actions." *In re Plumbing Fixture Cases*, 298 F. Supp. 484, 491–93 (J.P.M.L. 1968). "It is in the field of class action determinations in related multidistrict civil actions that the potential for conflicting, disorderly, chaotic judicial action is the greatest." *Id.* at 493; *see also In re Tyson Foods, Inc. Chicken Raised Without Antibiotics Consumer Litig.*, 582 F. Supp. 2d 1378, 1379 (J.P.M.L. 2008) (consolidating nine putative class actions because doing so would, among other things, "prevent inconsistent pretrial rulings (particularly with respect to class certification)"); *In re Plumbing Fixtures*, 308 F. Supp. 242, 244 (J.P.M.L. 1970) (transferring four putative class actions to a single judge, stating that "a potential for conflicting or overlapping class actions presents one of the strongest reasons for transferring such related actions to a single district for coordinated or consolidated pretrial proceedings which will include an early resolution of such potential conflicts"). Equally important are section 1407's efficiency-related aims to "eliminate duplication in discovery, avoid conflicting rulings and schedules, reduce litigation cost, and save the time and effort of the parties, the attorneys, the witnesses, and the courts." *Gelboim*, 574 U.S. at 410; *see also In re T-Mobile Customer Data Security Breach Litig.*, MDL No. 3019, 2021 WL 5872977, at *2 (J.P.M.L. Feb. 1, 2022) ("Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel, and the judiciary"); *In re Commodity Exchange, Inc., Gold Futures & Options Trading Litig.*, 38 F. Supp. 3d 1394, 1395 (J.P.M.L. 2014) (finding that centralization would "eliminate duplicative discovery . . . and conserve the resources of the parties, their counsel, and the judiciary").

Here, due to the overlapping factual and legal theories, as well as the overlapping proposed class definitions, the Related Actions will involve many of the same pretrial issues. Such issues will include those related to class certification, discovery, and dispositive motions—all of which will benefit from centralized management and coordination. Regarding class certification, Plaintiffs’ various proposed class definitions have substantial overlap as to the proposed Nationwide class but vary in so far as different cases assert different state subclasses. This is due in significant part to forty-one named plaintiffs, represented by nine law firms, having brought seven complaints, many of which assert different combinations of legal claims, and some of which emphasize different factual aspects of how Chrysler’s alleged conduct has adversely impacted hundreds of thousands of Class Vehicle owners and lessees. Additionally, as stated above in Part I-C, the proposed class definitions are for all intents and purposes the same. Against this backdrop, there is great potential for overlapping class definitions, which the JPML regularly considers as reason for transferring related cases to single district for coordinated pretrial proceedings. *See e.g., In re Nat’l Football League’s “Sunday Ticket” Antitrust Litig.*, 148 F. Supp. 3d 1358, 1359 (U.S. Jud. Pan. Mult. Lit. 2015); *In re SoClean, Inc. Mktg. & Sales Practices Prods. Liability Litig.*, MDL No. 3021, 2022 WL 303561 (J.P.M.L. Feb. 2, 2022) (centralizing “various putative statewide class actions” in part because “[c]entralization will . . . prevent inconsistent pretrial rulings[,] including with respect to class certification”). “[T]he need to eliminate the possibility of overlapping class determinations presents another compelling reason to bring these actions together for pretrial in a single jurisdiction.” *In re Nat’l Airlines, Inc. Maternity Leave Practices & Flight Attendant Weight Program Litig.*, 399 F. Supp. 1405, 1407 (J.P.M.L. 1975); *see also In re Res. Exploration, Inc., Sec. Litig.*, 483 F. Supp. 817, 821 (J.P.M.L. 1980) (noting that “[i]t is desirable to have a single judge oversee the class action issues in these actions to avoid duplicative efforts and inconsistent rulings in this area”).

As for discovery, the nature and scope of Plaintiffs’ substantially similar allegations regarding Chrysler’s conduct, policies, and practices, indicates that the quantity and complexity of discovery will be immense. If Plaintiffs continue to proceed in four different districts, in two different states, they will undoubtedly request many of the same data and documents and seek to

depose many of the same witnesses. Transfer and centralization will help to eliminate duplicative discovery and depositions; reduce discovery-related travel, costs, and schedule conflicts; eliminate duplicative discovery disputes and motion practice; and avoid conflicting rulings on discovery disputes—all of which will save the time and effort of the parties, counsel, witnesses, and the judiciary.

On the other hand, addressing these issues district-by-district will likely result in duplication of effort and wasted resources, while increasing the risk of inconsistent rulings. *In re Commercial Money Ctr., Inc. Equip. Lease Litig.*, 229 F. Supp. 2d 1379, 1380 (J.P.M.L. 2002) (finding that centralization of cases would prevent inconsistent pretrial rulings); *In re Midwest Milk Monopolization Litig.*, 379 F. Supp. 989, 991 (J.P.M.L. 1974) (centralizing litigation, in part, because of “the salutary effect of placing control of the pretrial proceedings in this complex litigation in the hands of a single judge who, with an overall perspective of the entire litigation . . . can schedule the discovery to minimize the expense to the parties and maximize the just and expeditious termination of the litigation”).

3. Transfer and Centralization Will Further the Convenience of the Parties and Witnesses.

Transfer and centralization will also serve the overall “convenience of parties and witnesses” consistent with § 1407(a). *See, e.g., In re Zantac (Ranitidine) Prods. Liability Litig.*, MDL No. 2924, 2021 WL 5848067, at *1 (“Transfer of an action, however, is appropriate if it furthers the expeditious resolution of the litigation taken as a whole, even if some parties to the action experience inconvenience[.]”); *In re Nat’l Prescription Opiate Litig.*, 2018 U.S. Dist. LEXIS 170489, at *2–3 (J.P.M.L. Oct. 3, 2018) (noting that the JPML looks to the “overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in isolation”). As stated above, the elimination of duplicative discovery would significantly increase convenience for the parties and witnesses.

Additionally, the plaintiffs in four of the Related Actions (4 of 7) chose to file their complaints in District Courts in California, indicating that California is the most convenient forum for them to litigate this matter. Scott Olsen, who filed in Southern District resides in Chula

Vista, California (Ex. 2 (*Olsen* Compl.) ¶¶ 8, 11, which is approximately 10 miles from the U.S. District Court in San Diego; Rodrigo Nieto Gomez, who filed in Northern District resides in Prunedale, California (Ex. 3 (*Gomez* Compl.) ¶ 9, which is approximately 55 miles from the U.S. District Court in San Jose, California; Robyn Reilman, who filed in Central District resides in Valley Glen, California (Ex. 4 (*Reilman* Compl.) ¶ 3, which is approximately 14 miles from the U.S. District Court in Los Angeles; and David Lawrence, who filed in Northern District resides in Santa Clara, California (Ex. 5 (*Lawrence* Compl.) ¶11, which is approximately 8 miles from the U.S. District Court in San Jose. As for defendant Chrysler, having the Related Actions centralized in a single district would be more convenient than having to litigate what is essentially the same matter in numerous district courts throughout the Country.

In sum, transfer of the Related Actions to a single district court for coordinated or consolidated pretrial proceedings is appropriate under § 1407 because the Actions share numerous and complex common issues of fact and law, and because centralization would promote the just and efficient conduct of the Actions and serve the overall convenience of parties, witnesses, and the courts.

B. The Related Actions Should Be Transferred to and Centralized in the Northern or Central District of California.

The JPML considers numerous factors when determining the most appropriate transferee forum. Such factors include the relative number of cases pending in each jurisdiction, the district in which the cases with the broadest allegations are pending, the transferee forum's experience in managing class actions and complex litigation, and whether the district is in a geographically central and accessible metropolitan location. *See, e.g., In re Bayer Healthcare LLC, Merial Limited Flea Control Prods. Mktg. & Sales Practices Litig.*, 844 F. Supp. 2d 1369, 1370 (2012) (noting the “experience of [the assigned judge] to guide this litigation on a prudent course” as a factor in assignment); *In re Viagra Prods. Liab. Litig.*, 414 F. Supp. 2d 1357, 1358 (2006) (selecting a transferee district with “a jurist experienced in complex multidistrict litigation” and “with the capacity to handle this litigation”); *In re Jamster Mktg. Litig.*, 427 F. Supp. 2d 1366, 1367 (2006) (transferring to district that offered “an accessible metropolitan location”); *In re*

Midwest Milk Monopolization Litig., 379 F. Supp. 989, 991 (J.P.M.L. 1974) (choosing transferee district, in significant part, because it “has become the center of gravity of this litigation” and because it is the venue of “the action containing the broadest allegations,” despite recognizing that “other concentrations of litigation” existed in two other states).

Here, the Northern or Central District of California are appropriate and convenient venues for transfer and centralization of the Related Actions and any tag-along actions for several reasons.

First, more than one half (4 of 7) of the Related Actions are already pending in California District Courts.

Second, the California cases contain broader allegations than those asserted in the three Michigan District cases. *Compare* Ex. 2 (*Olsen* Compl.) (Southern District of California action bringing ten claims, including fraud and deceit; negligent misrepresentation; unjust enrichment; negligence; violation of the Magnuson-Moss Warranty Act; breach of express written warranties; and breach of implied warranty of merchantability, as well as California state law claims), *and* Ex. 4 (*Reilman* Compl.) (Central District of California action bringing same ten claims as *Olsen*), *and* Ex. 3 (*Gomez* Compl.) (Northern District of California action bringing overlapping claims with *Olsen*, except not fraud/deceit or negligent misrepresentation), *with* Ex. 7 (*Schumann* Compl.) (Eastern District of Michigan action bringing only one nationwide claim for Violation of the Magnuson-Moss Warranty Act, and only two claims under California law, and two each under Illinois, Iowa and Nevada law).

Third, while the Defendant is headquartered in Michigan, Chrysler admits that California is its biggest minivan market in the country and that 40% of all hybrids are sold in the State of California. *See*, Ex. 2 (*Olsen* Compl.) ¶ 40, *citing*, “Chrysler Brand Launches California-Specific Multimedia Marketing Campaign for Chrysler Pacifica Plug-in Hybrid Minivan.”⁹

⁹ Chrysler Brand Launches California-Specific Multimedia Marketing Campaign for Chrysler Pacifica Plug-in Hybrid Minivan, 26 June 2018, <https://www.prnewswire.com/news-releases/chrysler-brand-launches-california-specific-multimediamarketing-campaign-for-chrysler-pacifica-plug-in-hybrid-minivan-300534089.html>. (Last accessed: March 17, 2022).

Third, According to the most recent Federal Court Management Statistics¹⁰ the Northern District of California, the Central District of California and the Eastern District of Michigan all have heavy caseloads, however, only 8.6% of civil cases in the Central District of California are over 3 years old, 8.9% in the Northern District of California are over 3 years old, while 10.9% in the Eastern District of Michigan are over 3 years old.

Fourth, the Northern and Central Districts meet the criteria of providing a geographically convenient forum. San Jose and Santa Ana are in population centers in the most populous state in the Country. Both are easily accessible metropolitan areas.

Fifth, Judge Davila and Judge Carney have significant MDL experience, whereas the other judges in the Related Cases do not.

For the foregoing reasons, Plaintiff Scott Olsen respectfully suggests that the Northern or Central Districts of California are the forums best suited for centralization of the Related Actions.

III. CONCLUSION

For the foregoing reasons, Plaintiff Scott Olsen respectfully requests that the JPML grant his motion to transfer the Related Actions from the various United States District Courts in which they are now pending to either the Northern District of California (San Jose Division) before the Honorable Edward J. Davila for coordinated or consolidated pretrial proceedings or to the Central District of California (Santa Ana) before the Honorable Cormac J. Carney.

¹⁰ <https://www.uscourts.gov/statistics-reports/federal-court-management-statistics-december-2021> (last accessed May 9, 2022).

Respectfully submitted,

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