

BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE: BROILER CHICKEN GROWER
ANTITRUST LITIGATION (NO. III)

MDL No. _____

**MEMORANDUM IN SUPPORT OF PLAINTIFFS’ MOTION TO TRANSFER RELATED
ACTIONS FOR CONSOLIDATED OR COORDINATED PRETRIAL PROCEEDINGS**

Pursuant to 28 U.S.C. § 1407 and J.P.M.L. Rule 6.2, Plaintiffs Haff Poultry, Inc., Nancy Butler, James Michael Mercer, Jonathan Walters, Marc McEntire, and Karen McEntire (collectively, “Plaintiffs” or “Movants”) respectfully move the Judicial Panel on Multidistrict Litigation (“JPML” or “Panel”) for an Order transferring the actions listed in the Schedule of Actions (“Related Actions”), as well as any tag-along cases subsequently filed, to the United States District Court for the District of Utah for centralized pretrial proceedings.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Related Actions each allege the same conspiracy to reduce competition in the market for broiler chicken (“Broiler”) growing services. The Actions allege that vertically integrated poultry company defendants (“Integrators”) agreed to limit or eliminate efforts to solicit, recruit, or hire one another’s Broiler growers (“Growers”), with the purpose and effect of fixing, maintaining, and/or stabilizing Grower compensation below competitive levels.

The first-filed complaint was brought in the Eastern District of Oklahoma by a group of Broiler Growers against twenty-six Integrators that operate broiler chicken processing plants and control the farming of a significant percent of Broilers grown across the United States. *Haff Poultry, et al. v. Mountaire Farms, Inc., et al.*, No. 25-cv-217-RAW (E.D. Okla.) (“*Haff*”). In order

to ensure personal jurisdiction in the event of an adverse personal jurisdiction ruling in the Eastern District of Oklahoma, *see* No. 17-cv-00033-RJS (E.D. Okla.), ECF No. 217 (dismissing certain cartel members for lack of personal jurisdiction), the *Haff* plaintiffs brought additional suits against subsets of these same Integrators in the Northern District of California, the Northern District of Illinois, the District of South Carolina, and the Western District of Virginia. There are now five pending Related Actions. Each of the Related Actions arises out of the same conduct—agreements among Integrators not to compete for Broiler growing services, with the purpose and effect of fixing, maintaining, and/or stabilizing Grower compensation below competitive levels. The Related Actions all allege that this conspiracy violates Section 1 of the Sherman Act and constitutes an unfair practice under Section 202 of the Packers and Stockyards Act.

This is not the first litigation challenging poultry companies’ anticompetitive practices in the market for Broiler growing services. *In Re: Broiler Chicken Grower Antitrust Litigation (No. II)*, MDL No. 2977 (J.P.M.L.) (“*Broiler II*”) involved the same claims against different Integrators, asserting that those Integrators participated in the same conspiracy challenged in the Related Actions. That complaint alleged nearly identical facts as those in the Related Actions before the Panel today. The Panel centralized those proceedings before Chief Judge Robert J. Shelby in the Eastern District of Oklahoma.¹ After eight years of litigation, *Broiler II* proceeded to final judgment in January of 2025 after settlements with all defendants in that litigation. No. 20-md-2977-RJS (E.D. Okla.), ECF No. 637.

II. ARGUMENT

a. Centralization Is Warranted Under 28 U.S.C. § 1407

¹ Chief Judge Robert J. Shelby is a United States District Judge of the United States Court for the District of Utah, and sat by designation pursuant to 28 U.S.C. § 292(b) in *In Re: Broiler Chicken Grower Antitrust Litigation (No. II)*.

Civil actions pending in different districts should be centralized where the actions “involv[e] one or more common questions of fact” and this Panel determines that transfer will further “the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407(a). “The objective of transfer 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.” *Manual for Complex Litigation* § 20.131 (4th ed. 2004). Centralization of the Related Actions will further this objective.

i. The Related Actions involve common factual questions.

For purposes of Section 1407, common factual questions exist where multiple actions “arise from the same factual milieu” and can be expected to involve a significant number of common events, defendants, and/or witnesses. *In re ClassicStar Mare Lease Litig.*, 528 F. Supp. 2d 1345, 1346 (J.M.P.L. 2007). Here, common questions of law and fact predominate in the Related Actions. These include (1) whether Integrators have engaged in a conspiracy to fix, maintain, or stabilize Grower compensation below competitive levels; (2) whether any such conspiracy violated Section 1 of the Sherman Act or Section 202 of the Packers and Stockyards Act; and (3) whether any such conspiracy did in fact artificially suppress Grower compensation below competitive levels. Such overlapping factual and legal issues support consolidation under 28 U.S.C. § 1407, especially in the antitrust context. *See, e.g., In re MultiPlan Health Ins. Provider Litig.*, 743 F. Supp. 3d 1376, 1377 (J.P.M.L. 2024) (finding centralization appropriate where “actions share factual questions arising from an alleged conspiracy to fix, suppress, and stabilize reimbursement rates paid to healthcare providers . . . in violation of the Sherman Act”); *In re Deere & Co. Repair Servs. Antitrust Litig.*, 607 F. Supp. 3d 1350, 1351 (J.P.M.L. 2022) (finding centralization appropriate where actions asserted “substantially identical claims under the Sherman

Act”); *In re Cotton Yarn Antitrust Litig.*, 336 F. Supp. 2d 1383, 1384 (J.P.M.L. 2004) (finding consolidation appropriate where cases “share factual questions relating to the existence, scope and effect of an alleged [Sherman Act Section 1] conspiracy”).

Indeed, the factual allegations are essentially identical across the Related Actions. The Panel routinely finds centralization appropriate in such circumstances. *See, e.g., In re: Skelaxin Antitrust Litig.*, 856 F. Supp. 2d 1350, 1351-52 (J.P.M.L. 2012) (centralizing cases with “nearly identical factual allegations”); *In re: Zurn Pex Plumbing Prods. Liab. Litig.*, 572 F. Supp. 2d 1380, 1381 (J.P.M.L. 2008) (same).

ii. Centralization would serve the convenience of parties and witnesses and promote the just and efficient conduct of the Related Actions.

Because the Related Actions’ factual allegations and legal claims largely overlap, transfer would serve “the convenience of parties and witnesses and . . . promote the just and efficient conduct” of the Related Actions. 28 U.S.C. § 1407(a). Judicial efficiency supports consolidation of the five Related Actions. *See, e.g., In re Broiler Chicken Grower Antitrust Litig.*, 509 F. Supp. 3d 1359, 1360 (J.P.M.L. 2020) (consolidating five pending actions under § 1407); *In re Wells Fargo Wage & Hour Emp. Practices Litig. (No. III)*, 804 F. Supp. 2d 1382, 1384-85 (J.M.P.L. 2011) (consolidating four pending actions).

The plaintiffs in the Related Actions will pursue substantially identical testimony, documents, and other evidence from Integrators. Centralizing the Related Actions will “eliminate the potential for duplicative discovery and pretrial motion practice, as well as inconsistent pretrial rulings and scheduling.” *In re OpenAI, Inc., Copyright Infringement Litig.*, 776 F. Supp. 3d 1352, 1355 (J.P.M.L. 2025). Because the Related Actions have common factual and legal questions, they will have many overlapping pretrial issues, including (among many others) the legal sufficiency of the claims and allegations, the factual sufficiency of proof gathered during discovery, the

amenability of the claims to classwide adjudication, and the admissibility of expert testimony. *See In re Multiplan*, 743 F. Supp. at 1377 (finding that centralization would “prevent inconsistent pretrial rulings, in particular as to class certification”); *In re Baby Food Mktg., Sales Practices & Prods. Liab. Litig. (No. II)*, 730 F. Supp. 3d 1371, 1373 (J.P.M.L. 2024) (holding that centralization will eliminate the potential for inconsistent pretrial rulings, “particularly with respect to expert admissibility and other dispositive issues”); *In re Glucagon-Like Peptide-1 Receptor Agonists Prods. Liab. Litig.*, 717 F. Supp. 3d 1370, 1373 (J.P.M.L. 2024) (centralizing cases that “may entail overlapping expert witnesses”).

The Panel should thus centralize the Related Actions to promote efficient litigation and prevent conflicting rulings on the same legal and factual issues.

b. The Panel Should Transfer the Related Actions to the District of Utah

In determining the appropriate transferee district, the Panel considers a variety of factors, including: (1) whether the district “offers a forum that is both convenient and accessible for the parties and witnesses”; (2) the location of “relevant witnesses and evidence”; (3) the parties’ preferences; and (4) the experience of the transferee judge and district in navigating “the nuances of complex and multidistrict litigation.” *See In re Aggrenox Antitrust Litig.*, 11 F. Supp. 3d 1342, 1343 (J.P.M.L. 2014). These factors support transfer to the District of Utah.

i. Chief Judge Shelby’s experience with related litigation supports transfer to the District of Utah.

Transfer to the District of Utah, and assignment to Chief Judge Shelby, would further the goals of judicial efficiency and expeditious termination of this litigation. The Panel has recognized the efficiency of transferring litigation to the district where the presiding judge has familiarity with the subject matter and procedural history of the action at issue or of related litigation. *See In re W. States Wholesale Natural Gas Antitrust Litig.*, 290 F. Supp. 2d 1376, 1378 (J.P.M.L. 2003)

(transferring to judge with familiarity with issues presented given previous experience presiding over another related MDL); *In re Shell Oil Prods. Co. Dealer Franchise Litig.*, 206 F. Supp. 2d 1373, 1374 (J.P.M.L. 2002) (transferring to judge with “familiarity with allegations in this litigation as a result of presiding over a related predecessor action”); *In re Denosumab Patent Litig.*, 766 F. Supp. 3d 1336, 1339 (J.P.M.L. 2025) (transferring to judge with “familiarity with products at issue, relevant manufacturing processes and technologies, and previous litigation” because it will “streamline resolution of the litigation”). This is true even where there is no action currently pending in that district. *See, e.g., In re Bridgestone/Firestone, Inc.*, 2000 WL 33416573, at *3 (J.P.M.L. Oct. 24, 2000) (transferring to district with no action currently pending because of the ability and experience of the transferee judge in that district); *In re Diet Drugs Prods. Liab. Litig.*, 990 F. Supp. 834, 835-36 (J.P.M.L. 1998) (same).

Transfer to the District of Utah would ensure that the Related Actions are presided over by a jurist with extensive experience and expertise with the procedural history and subject matter of the litigation. Chief Judge Shelby presided over *Broiler II*—an MDL with nearly identical factual allegations and legal claims—for nearly eight years. While the first-filed matter in *Broiler II* was brought in the Eastern District of Oklahoma, the case was assigned to Chief Judge Shelby after recusals of judges in that district, and Chief Judge Shelby served by designation pursuant to 28 U.S.C. § 292(b). *Haff Poultry, Inc. et al. v. Pilgrim Pride Corporation*, No. 17-cv-33, (E.D. Okla.) (ECF No. 98). In assigning *Broiler II* to Judge Shelby, the Panel called him an “able jurist with multidistrict litigation experience,” who had “the most familiarity with the subject matter of this litigation.” *In re Broiler Chicken Grower Antitrust Litig.*, 509 F. Supp. 3d at 1362. These statements are only more true today. In *Broilers II*, Judge Shelby presided over many months of discovery and decided many motions, including motions to dismiss, *see, e.g., Haff Poultry, Inc. et al. v.*

Pilgrim Pride Corp., No. 17-cv-33 (E.D. Okla.) (ECF No. 266), and for class certification, *Broilers II* (ECF No. 574).

ii. The District of Utah is a convenient, accessible, and experienced forum for this nationwide litigation.

With five actions pending in five districts, there is no obvious “logical center of gravity for this litigation.” *In re Church of Jesus Christ of Latter-Day Saints Tithing Litig.*, 730 F. Supp. 3d 1357, 1359 (J.P.M.L. 2024). Because the litigation involves an alleged nationwide conspiracy, the putative class and Integrator-Defendants are spread out across the country. Witnesses and evidence will be similarly dispersed. In such instances, transfer is appropriate to a district that is “geographically central and readily accessible”—like the District of Utah. *In re Deere*, 607 F. Supp. 3d at 1351. With Integrators on the West Coast, the Mid-Atlantic, the Midwest, and the South, Utah is relatively centrally located to parties and witnesses. As the Panel has noted, Salt Lake City is “an easily accessible, metropolitan location for [] nationwide litigation.” *In re ARC Airbag Inflators Prods. Liab. Litig.*, 648 F. Supp. 3d 1378, 1380 (J.P.M.L. 2022).

Another consideration supporting transfer and consolidation of these cases in the District of Utah is the court’s capacity and experience in handling complex multidistrict litigation, and its ability to devote its resources to this litigation to ensure its expeditious resolution. The District of Utah has a low rate of pending civil cases per judge, signifying that the court has the time to devote to such large-scale litigation. *See U.S. District Courts – Federal Court Management Statistics*, https://www.uscourts.gov/sites/default/files/document/fcms_na_distprofile0630.2025.pdf. The court has significant experience with complex MDLs and is well-versed in “the nuances of complex and multidistrict litigation.” *In re Aggrenox Antitrust Litig.*, 11 F. Supp. 3d at 1343. Nevertheless, there are no MDLs currently pending in the District of Utah. In short, the District of Utah offers an ideal transferee court for this litigation.

III. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request this Motion be granted and the Panel transfer the Related Actions listed in the Schedule of Actions, as well as any future tag-along actions, to the District of Utah for consolidated or coordinated pretrial proceedings under 28 U.S.C. § 1407. Plaintiffs further respectfully suggest that the Panel consider naming the MDL: *In re Broiler Chicken Grower Antitrust Litigation (No. III)*.

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