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## German Auto Antitrust MDL Centralized In California

By **Dorothy Atkins**

Law360, San Francisco (October 5, 2017, 2:17 PM EDT) -- The Judicial Panel on Multidistrict Litigation on Wednesday centralized at least 24 actions in California federal court that accuse German carmakers of colluding for decades on vehicle technology, rejecting proposals to move the litigation to Florida or New Jersey.

The panel centralized the cases in California's Northern District, where they will presided over by U.S. District Judge Charles R. Breyer, who has also overseen another high-profile multidistrict litigation involving Volkswagen AG's emissions equipment.

"We are persuaded that the Northern District of California, which is supported by moving plaintiffs and plaintiffs in six cases, is an appropriate transferee district for this litigation," the panel said.

Currently, there are 24 actions pending in at least seven districts and all of them share similar factual questions arising from allegations of anti-competitive conduct in the market for German manufactured automobiles, according to the panel.

The suits accuse the German automakers of participating in a cartel since the 1990s, in which they shared commercially sensitive information and allegedly reached unlawful agreements concerning various aspects of the automotive industry, including technology, costs, markets and suppliers, mechanical components and emissions equipment, the panel said.

In the last five years alone, the carmakers claim that the companies held more than 1,000 meetings that involved more than 200 employees and 60 working groups, according to the judicial panel's opinion.

The panel noted that the instant litigation might have similar facts to another multidistrict litigation that Judge Breyer presided over — In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation — which specifically involves the carmaker's emissions equipment. International discovery in the cases might overlap, so it is a "logical choice" that Judge Breyer should preside over both MDLs, the panel said.

"Judge Breyer's skill and expertise in the adjudication of other complex multidistrict litigation dockets will without doubt redound to the benefit of the parties, counsel and witnesses," the panel said. "We are confident that Judge Breyer will steer this litigation on a prudent course."

The decision comes after Porsche, Volkswagen, BMW and drivers, **urged the panel** to send the case to New Jersey federal court. The three carmakers and a handful of drivers argued that many related cases had been filed in New Jersey federal court, including the initial putative class action, which was launched after European antitrust enforcers confirmed they were **investigating similar allegations**.

The group also said that New Jersey federal courts had more judicial resources to take up the MDL than California's Northern District. Also, the state's proximity to several international airports and the automakers' regional headquarters further cement the district as the best forum for the consolidated MDL, they said.

In opposition to moving the cases west, Volkswagen Group of America Inc., Audi of America Inc. and

Audi of America LLC also argued that the emissions litigation involving Volkswagen is “wholly distinct” from the instant litigation and shouldn’t be a factor in the judicial panel’s decision.

Another group of driver plaintiffs urged the judicial panel **in August** to centralize the cases in Florida's Southern District, arguing that the Florida federal court has enough resources to handle the litigation, since it is currently overseeing only four MDLs, and South Florida is easily accessible.

Joshua H. Eggnatz of Eggnatz Lopatin & Pascucci LLP, who represents plaintiffs seeking to transfer the litigation to Florida, told Law360 on Thursday that he and his clients agree with the judicial panel that the cases should be consolidated for efficiency purposes and Judge Breyer is a “great and competent” jurist to take up the litigation.

“We look forward to working with the other firms to achieve hopefully a favorable result for the injured class,” Eggnatz said.

Counsel for the carmakers and counsel for plaintiffs seeking to centralize litigation in New Jersey didn’t immediately respond to requests for comment on Thursday.

The plaintiffs are represented by Carella Byrne Cecchi Olstein Brody & Agnello PC, Pearson Simon & Warshaw LLP and Eggnatz Lopatin & Pascucci LLP,, among others.

Robert Bosch LLC and its affiliates are represented by John Roberti Matthew Boucher and Michael S. Feldberg of Allen & Overy LLP. BMW and its affiliates are represented by Christopher J. Dalton of Buchanan Ingersoll & Rooney PC. The VW and Audi defendants are represented by Sharon L. Nelles of Sullivan & Cromwell LLP. Porsche Cars of North America and its affiliates are represented by Norman Armstrong Jr. of King & Spalding LLP. Mercedes-Benz International Inc. and its affiliates are represented by Shon Morgan of Quinn Emanuel Urquhart & Sullivan LLP.

The case is In re: German Automotive Manufacturers Antitrust Litigation, MDL No. 2796, before the U.S. Judicial Panel on Multidistrict Litigation.

--Additional reporting by Eric Kroh, Rachel Graf and Adam Rhodes. Editing by Stephen Berg.