

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: E. I. DU PONT DE
NEMOURS AND COMPANY C-8
PERSONAL INJURY LITIGATION,

Civil Action 2:13-md-2433
CHIEF JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Elizabeth Preston Deavers

This document relates to: ALL CASES.

PRETRIAL ORDER NO. 46

Notice and Opportunity to be Heard on Transfer of Venue

Currently the parties and the Court are preparing to try 40 of the approximately 3500 individual cases that make up this MDL. To provide the resources necessary for these trials, this Court, as permitted under 28 U.S.C. § 1404, ordered some of the cases to be tried at another location within this division. 28 U.S.C. § 1404(c) (“A district court may order any civil action to be tried at any place within the division in which it is pending.”). For similar reasons, the Court is considering transfer for trial several of the cases in this MDL to the Dayton and Cincinnati seats of court located in the Western Division of this district.

Pursuant to 28 U.S.C. § 1404, “[f]or the convenience of parties and witnesses, in the interest of justice, may transfer any civil action to any other district or *division* where it might have been brought. . . .” 28 U.S.C. § 1404(a) (emphasis added). “A transfer of venue pursuant to § 1404(a) may be made by motion of either party or by the court *sua sponte*, so long as the parties are first given the opportunity to present their views on the issue.” *Pavao v. Unifund CCR Partners*, 934 F. Supp.2d 1238, 1242 (S.D. Ca 2013) (citing *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986; *Starnes v. McGuire*, 512 F.2d 918, 934 (D.C. Cir. 1974)).

“Whether transfer is appropriate is addressed to the discretion of the district court, and reversal is appropriate only for abuse of such discretion.” *Thornton v. Walter*, 774 F.2d 1164, 1164 (6th Cir. 1985); *see also Piper Aircraft v. Reyno*, 454 U.S. 235, 253 (1981); *Superior Consulting Co., Inc. v. Walling*, 851 F.Supp. 839, 845 (E.D. Mich. 1994); *Nemmers v. Truesdale*, 612 F. Supp. 245, 246 (N.D. Ohio 1985)). “The statute was designed as a ‘federal housekeeping measure,’ allowing easy change of venue within a unified federal system.” *F.T.C. v. Mazzone & Son, Inc.*, 106-CV-2385, 2006 WL 3716808, at *1 (N.D. Ohio Dec. 13, 2006) (citing *Piper Aircraft*, 454 U.S. at 254). Before ordering transfer a district court should “issue an order to show cause why the case should not be transferred, and thereby afford the parties an opportunity to state their reasons for believing that this forum is most convenient or that the proposed alternative forum is inconvenient or not within the ambit of § 1404(a).” *Starnes v. McGuire*, 512 F.2d at 934; *accord Hite v. Norwegian Caribbean Lines*, 551 F. Supp. 390, 393 (E.D. Mich. 1982).

Accordingly, while the Court does not find the transfer of cases within this district to be of substantial import, it will provide the parties with the appropriate opportunity to be heard on their respective positions. Therefore, the parties are **DIRECTED** to file simultaneous briefs by 11:00 a.m., August 12, 2016, to show cause why several cases should not be transferred for trial in the Western Division of this district. The parties may file a response to their opposing counsels’ brief by August 17, 2016.

IT IS SO ORDERED.

8-2-2016

DATE



EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE