

UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

In re: Aqueous Film-Forming Foams Products Liability Litigation

MDL No. 2873 · No. MDL No. 2873 · Decided April 2, 2026

SUMMARY

The Judicial Panel on Multidistrict Litigation orders the transfer of four Alabama actions, a City of Fresno action, and two State of Maine actions to the District of South Carolina for coordinated or consolidated pretrial proceedings in MDL No. 2873. The Panel concludes that the actions overlap with existing MDL proceedings involving AFFF-related PFAS contamination of the same water supplies or sites, making transfer appropriate under 28 U.S.C. § 1407. The order rejects arguments that the actions involve only non-AFFF sources, that pending remand proceedings or discovery create obstacles to transfer, or that transfer would improperly broaden the MDL.

CASE DETAILS

COURT	United States Judicial Panel on Multidistrict Litigation
WRITING FOR THE COURT	Karen K. Caldwell; Nathaniel M. Gorton; Matthew F. Kennelly; Roger T. Benitez; Dale A. Kimball; Madeline Cox Arleo
JURISDICTION	United States Judicial Panel on Multidistrict Litigation
DECIDED	April 2, 2026
DOCKET	MDL No. 2873
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved under Panel Rule 7.1 to vacate conditional transfer orders transferring their actions to the District of South Carolina for inclusion in MDL No. 2873. The Panel denied the motions and ordered the actions transferred under 28 U.S.C. § 1407.
STANDARD OF REVIEW	The Panel assessed whether the statutory requirements for transfer under 28 U.S.C. § 1407 were met, including common questions of fact, convenience of parties and witnesses, and promotion of just and efficient conduct of the litigation.
PRECEDENTIAL VALUE	unpublished
PARTIES	Plaintiffs in the actions listed on Schedule A v. 3M Company, Other defendants in the City of Fresno action

TOPICS

civil procedure

venue

environmental law

municipal law

PRACTICE AREAS

civil procedure

multidistrict litigation

environmental law

municipal law

QUESTIONS PRESENTED

1. Whether the Panel should vacate prior conditional transfer orders for the Alabama, Fresno, and Maine actions because the actions purportedly involved only non-AFFF sources of PFAS contamination.
2. Whether factual overlap involving the same water supplies or contamination sites is sufficient to warrant transfer under 28 U.S.C. § 1407 without requiring complete overlap of wells or sources.
3. Whether pending remand motions, an appeal concerning federal-officer removal, or discovery already conducted in the transferor courts made transfer inappropriate.
4. Whether transferring the actions would improperly expand MDL No. 2873 into a broader PFAS multidistrict litigation.

HOLDINGS

1. The actions listed on Schedule A involve common questions of fact with actions already transferred to MDL No. 2873, and transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation.
2. Complete overlap in allegedly impacted wells and water sources is not required; transfer may be warranted when the same water supply is alleged to be contaminated by AFFF and is also at issue in actions pending in the MDL.
3. The Panel will not conduct a merits review of the complaints based on the level of detail in plaintiffs' pre-suit investigations or characterize allegations as conclusory for purposes of deciding transfer.
4. Pending remand motions, a related appeal concerning federal-officer removal, and limited discovery in the transferor courts do not preclude transfer when centralization would further the expeditious resolution of the litigation as a whole.

KEY QUOTATIONS

“We have not previously required a complete overlap in allegedly impacted wells and water sources, but only that the same water supply is alleged to be contaminated by AFFF.” (at 3)

“Doing so inevitably would require that we “engage in a merits review of the complaints based on the amount of detail of plaintiffs’ pre-suit investigations.”” (at 3)

“As a prerequisite to transfer to this MDL, we still require that complaints contain AFFF claims or, if the actions do not raise AFFF claims on their face, that movants satisfy a “significant burden” to persuade us “that transfer is appropriate and will not undermine the efficient progress of the MDL.”” (at 4)

“This action must either proceed as part of the MDL or separate from it, and the State’s repetitive disclaimers, as well as its stated intent to continue disclaiming sites whenever AFFF is identified as a

potential source of PFAS contamination, all strongly suggest that this action currently encompasses sites at which AFFF has been or will be identified.” (at 7)

“IT IS THEREFORE ORDERED that the actions listed on Schedule A are transferred to the District of South Carolina and, with the consent of that court, assigned to the Honorable Richard M. Gergel for coordinated or consolidated pretrial proceedings.” (at 7)

FACTUAL BACKGROUND

The actions concern alleged PFAS contamination of public water supplies and natural resources. The Alabama and Fresno plaintiffs primarily attributed contamination to non-AFFF industrial sources and disavowed claims based on AFFF use or disposal, while the State of Maine similarly attempted to separate its non-AFFF claims from an AFFF action. The Panel found that the same water supplies or contamination sites were also implicated in personal-injury or water-provider actions already pending in the AFFF MDL, creating potential duplicative discovery and overlapping pretrial issues.

PROCEDURAL HISTORY

The Alabama, Fresno, and Maine actions were pending in various federal districts and had been conditionally transferred or were subject to motions concerning transfer to MDL No. 2873. Plaintiffs argued that their claims involved non-AFFF sources of PFAS contamination, that transfer would cause inefficiency or delay, and, for the Alabama actions, that related federal-officer-removal issues were pending before the Eleventh Circuit. The Panel found factual overlap with actions already in the MDL, concluded that centralized pretrial proceedings would promote convenience and efficiency, denied the motions to vacate, and transferred the Schedule A actions to the District of South Carolina for coordinated or consolidated pretrial proceedings.

DISPOSITION

other

CASES CITED

- In re Aqueous Film-Forming Foams Prods. Liab. Litig., 357 F. Supp. 3d 1391, 1394 (J.P.M.L. 2018)
- Maine v. 3M Co., Inc., 159 F.4th 129 (1st Cir. 2025)
- In re Aqueous Film-Forming Foams Prods. Liab. Litig., MDL No. 2873, 2021 WL 755083, at *2 (J.P.M.L. Feb. 4, 2021)
- In re Prudential Ins. Co. of Am. Sales Pracs. Litig., 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001)
- In re Gen. Motors Class E Stock Buyout Sec. Litig., 696 F. Supp. 1546, 1547 (J.P.M.L. 1988)
- Transfer Order at 1-2 (City of Opelika), MDL No. 2873 (J.P.M.L. Oct. 9, 2025), ECF No. 3869
- Transfer Order at 2 (City of Savannah), MDL No. 2873 (J.P.M.L. June 2, 2025), ECF No. 3536
- Order Vacating CTO at 2-3, MDL No. 2873 (J.P.M.L. Aug. 3, 2022), ECF No. 1511
- Transfer Order at 3, MDL No. 2873 (J.P.M.L. June 5, 2023), ECF No. 1927
- Order Denying Transfer at 2-3, MDL No. 2873 (J.P.M.L. Dec. 11, 2025), ECF No. 4062
- Order Denying Transfer at 2, MDL No. 2873 (J.P.M.L. Dec. 18, 2019), ECF No. 541

- Transfer Order at 1-2, MDL No. 2873 (J.P.M.L. Oct. 4, 2024), ECF No. 2938
- Transfer Order at 4, MDL No. 2873 (J.P.M.L. June 7, 2021), ECF No. 1020

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