

**Jun 08, 2010**

FILED  
CLERK'S OFFICE

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: GENERAL MILLS, INC., YOPLUS YOGURT  
PRODUCTS MARKETING AND SALES PRACTICES LITIGATION**

MDL No. 2169

**ORDER DENYING TRANSFER**

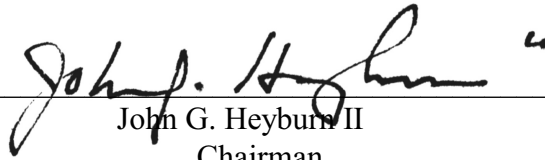
**Before the entire Panel:** Defendants General Mills, Inc., and its subsidiary Yoplait USA, Inc. (collectively General Mills) have moved, pursuant to 28 U.S.C. § 1407, to centralize this litigation in the Southern District of Florida. Plaintiffs oppose the motion, arguing that alternatives to centralization are available to avoid duplicative efforts. If the Panel deems centralization appropriate, plaintiffs support the Southern District of Florida or suggest the Northern District of Ohio.

This litigation currently consists of four actions pending as follows: an action each in the Central District of California, the Southern District of Florida, the District of New Jersey, and the Northern District of Ohio, as listed on Schedule A.

The case for centralization has some facial appeal. After all, the four actions before the Panel do share some factual questions regarding General Mills's nationwide marketing of its Yo-Plus and/or Yo-Plus Light yogurt. However, we are not convinced that these common factual questions are sufficiently complex and/or numerous to justify Section 1407 transfer at this time. Filed more than a year ago, the Southern District of Florida action is already certified as a statewide class of all persons who purchased Yo-Plus yogurt in Florida to obtain its claimed digestive benefits. This ruling is currently on interlocutory appeal before the Eleventh Circuit. The other three actions seek similar putative statewide classes encompassing consumers from different states. Accordingly, the certified and putative classes will likely not overlap significantly. Because all plaintiffs are represented by mostly common counsel and General Mills is the sole defendant, the parties have every ability to cooperate and minimize the possibilities of duplicative discovery and/or inconsistent pretrial rulings. *See, e.g., In re Eli Lilly and Co. (Cephalexin Monohydrate) Patent Litigation*, 446 F.Supp. 242, 244 (J.P.M.L. 1978); *see also Manual for Complex Litigation, Fourth*, § 20.14 (2004).

IT IS THEREFORE ORDERED that the motion, pursuant to 28 U.S.C. § 1407, for centralization of the actions listed on Schedule A is denied.

PANEL ON MULTIDISTRICT LITIGATION

  
\_\_\_\_\_  
John G. Heyburn II  
Chairman

Robert L. Miller, Jr.  
David R. Hansen  
Frank C. Damrell, Jr.

Kathryn H. Vratil  
W. Royal Furgeson, Jr.  
Barbara S. Jones

**IN RE: GENERAL MILLS, INC., YOPLUS YOGURT  
PRODUCTS MARKETING AND SALES PRACTICES LITIGATION**

MDL No. 2169

**SCHEDULE A**

Central District of California

Jeremiah Johnson v. General Mills, Inc., et al., C.A. No. 8:10-61

Southern District of Florida

Julie Fitzpatrick v. General Mills, Inc., et al., C.A. No. 0:09-60412

District of New Jersey

Nipul S. Amin v. General Mills, Inc., et al., C.A. No. 2:10-305

Northern District of Ohio

Melissa Brock v. General Mills, Inc., et al., C.A. No. 1:10-60