

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL

IN RE: PARAQUAT PRODUCTS
LIABILITY LITIGATION

APPLICABLE TO ALL CASES

ORDER-In Re: Paraquat Products Litigation [LKO]



: MAY TERM, 2022
: NO. 559
: CONTROL NOs. 25053555
: 25053554
: 25053553
: 25053548
: 25053541
: 25053546
: 25053539
: 25053537
: 25043536
: 25043534

ORDER

AND NOW this 11th day of July, 2025, upon consideration of the Motion to Dismiss for *Forum Non Conveniens*¹ filed by defendants Syngenta Crop Protection, LLC and Chevron U.S.A. Inc., and any responses, it is **ORDERED** the motion is **DENIED**.²

¹ Syngenta Crop Protection LLC and Chevron U.S.A. Inc. filed their Motion to Dismiss on the Global Docket (No. 220500559), and filed identical motions on nine case-specific dockets: *Black* (Case No. 220902343), *Bordelon* (Case No. 220902549), *Clark* (Case No. 220902344), *Hayes* (Case No. 220902545), *Lemon* (Case No. 230200049), *Lewis* (Case No. 220901836), *Steele* (Case No. 220902348), *Skelton* (Case No. 220902523), and *Thompson* (Case No. 220901384).

² Defendants are represented by preeminent sophisticated counsel. The attorneys benefit from the effectiveness and efficiency of Philadelphia's Mass Tort Program. The mass tort program generally draws on the authority of state and local rules for the practices and procedures employed. See Pa. R. Civ. P. 1041.2; Phila.Civ.R.

*1041.1. In its 30 plus years of existence, the mass tort program has been a model of case management, resolving tens of thousands of cases, clearing backlogs of cases not just in Philadelphia but throughout the country, and allowing all courts to more efficiently dispense justice to all litigants who seek redress. In the Paraquat mass

tort, plaintiffs have availed themselves of this forum and the mass tort program generally. These Defendants have also clearly benefitted from this Court's management of the Paraquat mass tort and the coordination with the MDL. Now, several years into the Paraquat program's existence, and with cases generally on the eve of trial, Defendants have cherry-picked certain cases and seek to now scatter those cases to jurisdictions across the country to court systems that may, or may not, be equipped to handle them. Moreover, Defendants now ask this Court to order the 938 plaintiffs who do not reside in Pennsylvania and whose cases were not selected for inclusion in the bellwether trial pool to show cause why their cases should not be dismissed with leave to re-file in the jurisdiction in which they reside. The request, in all respects, and as to all plaintiffs, is denied.

Turning specifically to the nine cases in which motions were filed, the Court begins by noting a plaintiff's choice of forum is entitled to great weight. *See e.g. Bochetto v. Piper Aircraft Co.*, 94 A.3d 1044, 1056 (Pa. Super. Ct. 2014). A trial court commits reversible error when it disregards a plaintiff's chosen forum unless "weighty reasons" exist which would justify disregarding the plaintiff's choice. *Id.* While the Court recognizes that these specific plaintiffs are not Pennsylvania residents, this fact is not dispositive, as discussed *infra*.

No case can be dismissed under the doctrine of *forum non conveniens* unless there is a suitable alternate forum. *Plum v. Tampax, Inc.*, 160 A.2d 549, 551 (Pa. 1960). Here, an alternate forum exists for the nine cases impacted by this motion because both Syngenta Crop Protection and Chevron have "stipulate[d] that they will not raise venue or personal-jurisdiction objections if [the nine plaintiffs] refile in his or her home state or the state in which he or she alleges paraquat exposure" and "will treat each Plaintiff's filing date in Pennsylvania as the operative filing date for statute-of-limitation purposes." Motion at p. 12. The existence of a suitable alternate forum, however, is only half the inquiry; a defendant must also prove that sufficient "weighty reasons" exist to justify dismissal. *See, e.g., Wright v. Aventis Pasteur, Inc.*, 905 A.2d 544, 552 (Pa. Super. Ct. 2006). It is here where the Defendants' arguments utterly fail.

"[T]he trial court must examine both the private and public interests involved" to determine whether weighty reasons exist to overcome a plaintiff's chosen forum. *Jessop v. ACF Indus., LLC*, 859 A.2d 801, 803 (Pa. Super. 2004). "These two sets of factors are not mutually exclusive but rather supplement each other." *Plum*, 160 A.2d at 562. To justify dismissal on the basis of *forum non conveniens*, "the private and public factors must be strongly in favor of the party moving for dismissal." *Jessop*, 859 A.2d at 804.

When examining the private factors, a trial court considers the ease of access to sources of proof, availability of compulsory process for attendance of witnesses,

possibility of a jury view, and any other practical problem that would make trial easy, expeditious, and inexpensive. *Jessop*, 859 A.2d at 803. Here, Defendants' argument regarding the private factors centers on the fact the nine plaintiffs are not Pennsylvanians and their causes of action did not arise in Pennsylvania. The Defendants' summarily (and spuriously) conclude that the plaintiffs' sources of proof must not be readily accessible in Pennsylvania.

The "evidence" the Defendants submitted betrays this conclusion. The affidavit detailing the steps necessary to domesticate Pennsylvania subpoenas into foreign jurisdictions borders on bad faith. The Defendants are represented by preeminent counsel with extensive experience and resources. Nowhere in the motion do Defendants cite a single instance where they have been unable to access a source of proof because that source of proof was located outside of Pennsylvania. While the process of domesticating a subpoena may be cumbersome, the Defendants have ample resources to obtain the information they seek. And Defendants do not explain in any way how the process of obtaining a foreign subpoena in a mass tort case is any more cumbersome than in any other case filed in Philadelphia. In sum, the subpoena process and access to sources of proof falls well short of a sufficient reason for this Court to disregard the plaintiffs' chosen forum.

Next, Defendants aver, without credible support, that trying these cases in Pennsylvania would present difficulties compelling witnesses to attend trial. The Defendants have not pointed to a single witness affidavit or testimony from a deposition where a witness made the blanket statement that they would be unable to attend trial in Philadelphia. Moreover, this Court regularly resolves trial scheduling conflicts and issues of witness availability. This is normal trial management that either this Court or the capable trial judge can handle. Simply put, this "justification" again falls well short of the applicable standard.

When examining the public factors, a trial court should consider administrative difficulties for the court caused by litigating in the forum court, the burden imposed on jurors who may have little to no relation to the litigation, and whether the forum court will have to apply the law of a foreign jurisdiction. *Jessop*, 859 A.2d at 803-04. Here, Defendants argue that litigating these cases in Philadelphia's mass tort program will somehow cause administrative difficulty for the Philadelphia court system. Candidly, this Court is at a loss for how a system that (i) was specifically designed to handle cases such as this, (ii) employs a staff of attorneys who specialize in products liability mass torts as well as a staff of administrators who were specifically trained to handle mass torts, (iii) has a judge specifically assigned to administer the mass tort program; and, (iv) has successfully resolved tens of thousands of mass tort cases over its 30-year existence could possibly suffer administrative difficulty in litigating these cases. It is a daft suggestion by Defendants to tell this Court what it is, or is not capable of handling.

BY THE COURT:



J.

Defendants next argue that the citizens of Philadelphia should not bear the burden of jury duty when these cases have little to no connection to Pennsylvania or Pennsylvania law. Once again, Defendants' argument completely misses the mark. Defendant Chevron USA, Inc. is incorporated in Pennsylvania; therefore, it is, by definition, "at home" in Pennsylvania. *See Daimler AG v. Bauman*, 571 U.S. 117 (2014) (holding that "the place of incorporation" was one of two paradigmatic bases for being "at home" in state for personal jurisdiction purposes). It is beyond cavil that Philadelphia jurors have an interest in holding a resident corporation liable for its alleged tortious conduct. Finally, this Court has applied the law of a foreign jurisdiction on numerous prior occasions, as evidenced by the fact that it has applied the law of 15 jurisdictions in the Risperdal mass tort and on countless other occasions in the 39-year history of the asbestos program.

The private factors and the public factors both heavily weigh against transferring these cases. This alone is sufficient grounds to deny the motion. The Court would be remiss if it did not also note that the timing of the motions is particularly noteworthy. Each of the cases that Defendants seek to transfer has been pending in this Court for over three years. Five of the nine cases are listed as either a "primary" case or a "back-up" case for trial within the next six months. The trial settings in Philadelphia and the proceedings in the MDL served as a basis for the parties, both in Philadelphia and globally, to engage in significant settlement discussions. While it is not for the Court to speculate as to the timing and motivation for the Defendants to file their motions in May 2025, the delay in filing provides another basis for the Court to deny the motion with respect to those cases that are preparing for trial. *See Wright*, 905 A.2d at 551.