

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

I am here to talk about the potential impact of interdistrict travel, which must be like being in a time machine or being swept into the vortex of a tornado. One moment one is happily litigating a seemingly uncomplicated state law tort action in your home state court; the next moment your case has been removed to federal court; and the next moment you have been advised to appear in a far away location before something called the Judicial Panel on Multidistrict Litigation. In the Wizard of Oz, Dorothy, one moment happily at home in Kansas, the next moment transported by a tornado to an entirely different dimension of time and space and you can only exclaim and wonder to your truly perplex client: "Toto, we are not in the District of Kansas any more."

In the most unfair cases, this occurs because state cases can be removed to federal court, sometimes under suspect or arguable circumstances. And, it takes several months for the rightness or wrongness of that removable to be resolved upon a motion to remand.

Under the Class Action Fairness Act ("CAFA"), it is easier to remove class actions to federal court, and the paragraph under 28 U.S.C. § 1407, any party can move the Panel on Multidistrict Litigation to consolidate similar cases in a district of the Panel's choice. Further, while such a motion is pending, the district judges usually neglect to rule on such things as motions to remand or to dismiss. The consequences of such a scenario are both problematic and potentially beneficial for an individual and the system of justice as a whole. On the positive side, centralization can save thousands of dollars in attorney's fees, hundreds of hours of judicial time, while avoiding inconsistent rulings.

The concept behind the Panel on Multidistrict Litigation is that where multiple cases in