

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

IN RE FLAT GLASS  
ANTITRUST LITIGATION (NO. II)

MDL DOCKET NO. \_\_\_\_

07-5223-File

**MOTION OF PLAINTIFFS JOHN DRAPER D/B/A DRAPER'S AUTO GLASS,  
JACKSON GLASS COMPANY, INC., AND COLONIAL GLASS SOLUTIONS FOR  
TRANSFER AND COORDINATION OR CONSOLIDATION OF RELATED  
ANTITRUST ACTIONS TO THE EASTERN DISTRICT OF PENNSYLVANIA  
FOR PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. § 1407**

John Draper d/b/a Draper's Auto Glass, Jackson Glass Company, Inc., and Colonial Glass Solutions (collectively, "the Eastern Pennsylvania Plaintiffs"), by their undersigned counsel, respectfully request the Judicial Panel on Multidistrict Litigation (the "MDL Panel") to issue an Order pursuant to 28 U.S.C. § 1407 for transfer and coordination or consolidation in the U.S. District Court for the Eastern District of Pennsylvania for pretrial proceedings of all pending, currently pending and later filed antitrust actions relating to a conspiracy to fix prices in the flat glass market.

1. To date, seven antitrust class actions have been filed alleging a conspiracy to fix prices in the market for Flat Glass<sup>1</sup> in violation of Section 1 of the Sherman Act (collectively, the “Actions”). The first-filed civil action<sup>2</sup> is a class action filed in the U.S. District Court for the Eastern District of Pennsylvania in Philadelphia on behalf of all direct purchasers of Flat Glass against several defendants.<sup>3</sup> Six additional civil actions have been filed, two of which were also filed in the Eastern District of Pennsylvania<sup>4</sup>, and four (“Related Actions”) filed in other districts.<sup>5</sup> Pursuant to Rule 7.2(a)(ii) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, a Schedule of Actions for which coordination and consolidation is requested is attached as Exhibit A to the accompanying memorandum in support of this motion.

2. The Actions proposed for coordination or consolidation are based on the same operative facts and therefore “involv[e] one or more common questions of fact” as required by 28 U.S.C. § 1407(a). Common questions of fact are: (a) whether the Defendants engaged in a combination and conspiracy among themselves to fix, raise, maintain, and/or stabilize prices of

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<sup>1</sup> “Flat Glass” refers to glass manufactured through the “float process” whereby molten glass is fed into a bath containing a dense substance, usually molten tin, allowing the molten glass to literally “float” on the surface of the molten tin. As used in the Eastern District of Pennsylvania Plaintiffs’ Complaints, “Flat Glass” includes, at least, all unfabricated and fabricated glass products manufactured through the “float process,” whether transparent, opaque, translucent, reinforced or otherwise, formed in a flat shape, used for cutting into window panes, or glass formed flat and subsequently bent or curved, used for fabrication into automobile windshields.

The proposed case caption of *In re Flat Glass Antitrust Litigation (No. II)* is owing to the fact that there was a previous flat glass litigation, *In re Flat Glass Antitrust Litigation*, MDL 1200.

<sup>2</sup> *Draper v. Guardian Industries Corp., et al*, Civil No. 2:07-cv-05223-ER (E.D. Pa. Dec. 11, 2007) (Exhibit B).

<sup>3</sup> The Actions allege that some or all of the following, Pilkington Group Limited, Nippon Sheet Glass Co., Saint-Gobain SA, Asahi Glass Company Limited, Guardian Industries Corporation, and PPG Industries, Inc., and/or their affiliated entities (collectively, “Defendants”), have conspired to fix, raise, maintain or stabilize prices for Flat Glass over roughly the same time period.

<sup>4</sup> *Jackson Glass Company, Inc. v. Guardian Industries Corp., et al*, Civil No. 2:08-cv-00438-ER (E.D. Pa. Jan. 29, 2008) (Exhibit C); *Colonial Glass Solutions v. Guardian Industries Corp., et al*, Civil No. 2:08-cv-00478-ER (E.D. Pa. Jan. 31, 2008) (Exhibit D) (collectively, with the Draper Action, the “Eastern Pennsylvania Actions”).

<sup>5</sup> *Diversified Glass Services, Inc. v. Pilkington North America, Inc. et al*, Civil No. 1:08-cv-00903-SWK (S.D.N.Y. Jan. 25, 2008) (Exhibit E); *Burhans Glass Company, Incorporated v. Guardian Industries Corporation et al*, Civil No. 2:08-cv-10415-JF-VMM (E.D. Mich. Jan. 29, 2008) (Exhibit F); *Gilkey Window Company, Inc. v. Guardian Industries Corp. et al*, Civil No. 2:08-cv-00139-DWA-ARH (W.D. Pa. Jan. 30, 2008) (Exhibit G);

Flat Glass in the United States; (b) the identity of the participants in the Defendants' conspiracy; (c) the duration of the Defendants' conspiracy and the nature and character of the facts performed by Defendants in furtherance of the conspiracy; (d) whether the Defendants' conspiracy violated Section 1 of the Sherman Act; (e) whether the conduct of the Defendants caused injury to the business or property of the plaintiffs and the members of the proposed class; (f) the effect of the Defendants' conspiracy on the prices of Flat Glass sold in the United States during the class period; and (g) the appropriate measure of damages sustained by the named plaintiffs and members of the proposed class. As a consequence, transfer of the Related Actions for coordination will prevent duplication of discovery, eliminate the possibility of conflicting pretrial rulings, and conserve judicial resources.

3. The U.S. District Court for the Eastern District of Pennsylvania is the appropriate forum for coordination or consolidation of the Actions. First, the first-filed case is pending there. Second, three of the seven Actions are pending there. Third, one of the Defendants is located in the Eastern District of Pennsylvania, making it a locus of witnesses and relevant evidence. Fourth, the remaining Defendants have their principal offices in Europe, Japan, and other U.S. cities; a central location such as Philadelphia, one of the largest cities in the United States with world-class facilities and air transportation, is therefore convenient for all parties.

4. In addition, judicial caseload profiles indicate that the Eastern District of Pennsylvania is well suited to manage this complex litigation. It has the resources and personnel necessary for the management of an MDL proceeding.

WHEREFORE, the Eastern Pennsylvania Plaintiffs respectfully request that the MDL Panel issue an Order transferring the Related Actions and all subsequently-filed related actions to

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*Perilstein Glass Corporation v. Asahi Glass Company Limited, et al*, Civil No. 3:08-cv-00257-JZ (N.D. Ohio Jan. 31, 2008) (Exhibit H) (collectively, the "Related Actions").

the U.S. District Court in the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings.

Dated: February 4, 2008

Respectfully submitted,

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**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

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IN RE FLAT GLASS  
ANTITRUST LITIGATION (NO. II)

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MDL NO. \_\_\_\_\_

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF PLAINTIFFS JOHN  
DRAPER D/B/A DRAPER'S AUTO GLASS, JACKSON GLASS COMPANY, INC., AND  
COLONIAL GLASS SOLUTIONS FOR TRANSFER AND CONSOLIDATION OF  
RELATED ANTITRUST ACTIONS IN  
THE EASTERN DISTRICT OF PENNSYLVANIA  
FOR PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. § 1407**

Pursuant to Rule 7.2(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, John Draper d/b/a Draper's Auto Glass ("Draper"), Jackson Glass Company, Inc. ("Jackson"), and Colonial Glass Solutions ("Colonial") (hereinafter collectively referred to as the "Eastern Pennsylvania Plaintiffs") respectfully submit this memorandum of law in support of their Motion for Transfer and Coordination or Consolidation of Related Antitrust Actions in the Eastern District of Pennsylvania for Pretrial Proceedings pursuant to 28 U.S.C. § 1407.

## FACTUAL BACKGROUND

To date, seven antitrust actions have been filed alleging a conspiracy to fix prices in the market for Flat Glass<sup>1</sup> in violation of Section 1 of the Sherman Act (collectively, “the Actions”). See Exhibit A, Schedule of Actions. On December 11, 2007 Draper filed the first class action in the U.S. District Court for the Eastern District of Pennsylvania on behalf of all direct purchasers of Flat Glass (the “Draper Action”).<sup>2</sup> Jackson and Colonial have each filed a related class action in the Eastern District of Pennsylvania as well.<sup>3</sup> The remaining four Related Actions were filed approximately six to seven weeks after the Draper Action in the Southern District of New York, the Western District of Pennsylvania, the Eastern District of Michigan, and the Northern District of Ohio.<sup>4</sup>

The Actions involve common allegations of fact and law. The Actions allege that some or all of the following, Pilkington Group Limited, Nippon Sheet Glass Co., Saint-Gobain SA, Asahi Glass Company Limited, Guardian Industries Corporation, and PPG Industries, Inc., and/or their affiliated domestic and/or foreign entities (collectively, “Defendants”), have

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<sup>1</sup> “Flat Glass” refers to glass manufactured through the “float process” whereby molten glass is fed into a bath containing a dense substance, usually molten tin, allowing the molten glass to literally “float” on the surface of the molten tin. As used in the Eastern Pennsylvania Plaintiffs’ Complaints, “Flat Glass” includes, at least, all unfabricated and fabricated glass products manufactured through the “float process,” whether transparent, opaque, translucent, reinforced or otherwise, formed in a flat shape, used for cutting into window panes, or glass formed flat and subsequently bent or curved, used for fabrication into automobile windshields.

The proposed case caption of *In re Flat Glass Antitrust Litigation (No. II)* is owing to the fact that there was a previous flat glass litigation, *In re Flat Glass Antitrust Litigation*, MDL 1200.

<sup>2</sup> *Draper v. Guardian Industries Corp., et al*, Civil No. 2:07-cv-05223-ER (E.D. Pa. Dec. 11, 2007) (Exhibit B).

<sup>3</sup> *Jackson Glass Company, Inc. v. Guardian Industries Corp., et al*, Civil No. 2:08-cv-00438-ER (E.D. Pa. Jan. 29, 2008) (Exhibit C); *Colonial Glass Solutions v. Guardian Industries Corp., et al*, Civil No. 2:08-cv-00478-ER (E.D. Pa. Jan. 31, 2008) (Exhibit D) (collectively, with the Draper Action, the “Eastern Pennsylvania Actions”).

<sup>4</sup> *Diversified Glass Services, Inc. v. Pilkington North America, Inc. et al*, Civil No. 1:08-cv-00903-SWK (S.D.N.Y. Jan. 25, 2008) (Exhibit E); *Burhans Glass Company, Incorporated v. Guardian Industries Corporation et al*, Civil No. 2:08-cv-10415-JF-VMM (E.D. Mich. Jan. 29, 2008) (Exhibit F); *Gilkey Window Company, Inc. v. Guardian Industries Corp. et al*, Civil No. 2:08-cv-00139-DWA-ARH (W.D. Pa. Jan. 30, 2008) (Exhibit G); *Perilstein Glass Corporation v. Asahi Glass Company Limited. et al*, Civil No. 3:08-cv-00257-JZ (N.D. Ohio Jan. 31, 2008) (Exhibit H) (collectively, the “Related Actions”).

conspired to fix, raise, maintain or stabilize prices for Flat Glass over roughly the same time period. Furthermore, based on similar facts, each of the Actions asserts antitrust claims under the Sherman Act, 15 U.S.C. § 1 *et seq.*, and seek similar relief. Thus, the Actions should be consolidated or coordinated in a single District to prevent duplicative discovery and motion practice, avoid the possibility of inconsistent rulings, and conserve the resources of the courts and the litigants.

The Eastern Pennsylvania Plaintiffs submit that the Eastern District of Pennsylvania is the appropriate forum for coordination or consolidation of all the Actions, and that the Related Actions ought to be transferred there for the following reasons:

- The first case was filed in the Eastern District of Pennsylvania;
- Three of the seven Actions are currently pending in the Eastern District of Pennsylvania;
- One of the Defendants has offices and employees in the Eastern District of Pennsylvania;
- This case involves the activities of numerous European or Japanese defendants; the U.S. District Court in the Eastern District of Pennsylvania, located in Philadelphia, is easily accessible from anywhere in the world; and
- The Eastern District of Pennsylvania has the resources to handle the Actions.

### ARGUMENT

#### **I. The Actions Should Be Consolidated or Coordinated For Pretrial Proceedings.**

The Actions should be consolidated or coordinated for pretrial proceedings pursuant to 28 U.S.C. § 1407(a), which permits transfer and consolidation or coordination of cases: (1) that “involv[e] one or more common questions of fact;” (2) where transfer will further “the convenience of parties and witnesses;” and (3) where transfer “will promote the just and efficient conduct of [the] actions.” *See In re Cutter Labs., Inc. “Braunwald-Cutter” Aortic Heart Valve*

*Prods. Liab. Litig.*, 465 F. Supp. 1295, 1296 (J.P.M.L. 1979). Consolidation or coordination of the Actions will satisfy each of these objectives.

**A. Consolidation or Coordination Is Appropriate Because The Actions Involve One or More Common Questions of Fact And Law.**

Each of the Actions alleges that Defendants conspired to fix, raise, maintain or stabilize prices for Flat Glass over the same time period, in violation of the Sherman Act. The Panel consistently holds that cases involving overlapping factual and legal issues are particularly appropriate for transfer. See *In re Urethane Antitrust Litig.*, 333 F. Supp. 2d 1379, 1379-81 (J.P.M.L. 2004) (transferring related antitrust cases under § 1407 because, among other things, the cases “involved common questions of fact”); *In re Beef Indus. Antitrust Litig.*, 419 F. Supp. 720, 721 (J.P.M.L. 1976) (common factual issues concerning alleged antitrust conspiracy necessitated transfer); *In re Hawaiian Hotel Room Rate Antitrust Litig.*, 438 F. Supp. 935, 936 (J.P.M.L. 1977) (“As is often true in multidistrict antitrust litigation, the private actions raise common questions of fact concerning the existence, scope and effect of the alleged conspiracy.”). The Actions share common issues of fact and law, and therefore, should be consolidated or coordinated in one District.

**B. Consolidation or Coordination for Pretrial Proceedings Will Further the Convenience of Parties and Witnesses.**

Consolidation or coordination for pretrial proceedings will also serve “the convenience of the parties and witnesses” in accordance with the second requirement of § 1407(a). The allegations set forth in the Actions will require duplicative discovery and pretrial proceedings unless the Actions are consolidated or coordinated for pretrial purposes in one District. In each case, the parties will seek discovery of the same body of documents.

For instance, each plaintiff will seek to prove how Defendants determined and established the prices for Flat Glass and how they communicated with one another. Plaintiffs

will also seek to depose the same individuals. There is no reason to require the parties to respond to multiple motions and discovery requests or to require the parties and other witnesses to transmigrate across the U.S. to appear in multiple proceedings. Transfer and consolidation or coordination will solve these problems because it will permit the transferee judge to formulate a single, unified pretrial program that minimizes the inconvenience and overall expense for all parties and witnesses. See *In re Uranium Indus. Antitrust Litig.*, 458 F. Supp. 1223, 1229 (J.P.M.L. 1978) (consolidation appropriate where centralization of complex actions with international aspects would prevent duplicative discovery and inconsistent pretrial rulings); *In re European Rail Pass Antitrust Litig.*, No. MDL 1386, 2001 WL 587855, at \*1 (J.P.M.L. Feb. 7, 2001) (cases transferred to a single district to avoid duplicative discovery).

**C. Consolidation or Coordination for Pretrial Proceedings Will Promote The Just and Efficient Conduct of The Actions.**

Consolidation or coordination of the Actions for pretrial proceedings will also “promote the just and efficient conduct of [the] actions” in accordance with the third requirement of § 1407(a). The Actions will likely involve the same pretrial issues, such as those concerning the nature and scope of discovery and concerning the sufficiency of plaintiffs’ allegations. If each District were forced to resolve these issues in separate pretrial proceedings, scarce judicial resources would be wasted needlessly. Moreover, there would be a substantial likelihood that such duplicative proceedings might result in inconsistent rulings, especially regarding the important issue of class certification. Consolidation or coordination will avoid all of these problems. See *In re A.H. Robins Co. “Dalkon Shield” IUD Prods. Liab. Litig.*, 406 F. Supp. 540, 542 (J.P.M.L. 1975) (transfer necessary to prevent duplication of discovery and eliminate possibility of conflicting pretrial rulings); *In re Hawaiian Hotel Room Rate Antitrust Litig.*, 438 F. Supp. at 936 (consolidation of five actions was necessary “in order to prevent duplication of

discovery, eliminate the possibility of inconsistent pretrial rulings, and streamline the rest of the pretrial proceedings as well”); *In re Commercial Money Ctr., Inc. Equip. Lease Litig.*, No. MDL 1490, 2002 WL 31432881, at \*1 (J.P.M.L. Oct. 25, 2002) (consolidation of cases filed nationwide would prevent inconsistent rulings).

## **II. The Related Actions Should Be Transferred To The Eastern District of Pennsylvania.**

The United States District Court for the Eastern District of Pennsylvania is the most appropriate venue for the coordination or consolidation of the Actions because it is the venue where the first case was filed; where the most cases are pending; where one of the Defendants has offices; and where the most plaintiffs have filed. It is also a venue that is convenient to the parties and potential witnesses. Furthermore, the Eastern District of Pennsylvania possesses the requisite experience, resources and unburdened docket that would allow the Actions to move forward in an efficient and expeditious manner.

### **A. The Eastern District of Pennsylvania Is Where the First Case Was Filed, Where the Most Cases Are Pending, and Where the Most Plaintiffs Filed.**

The Eastern District of Pennsylvania is the venue where the first case was filed. It is also the venue where the most cases are pending. Seven class actions have been filed to date on behalf of seven different plaintiffs; three are currently pending in the Eastern District of Pennsylvania, and each Eastern Pennsylvania Plaintiff is a movant herein. The four Related Actions are in the Southern District of New York (New York City), the Western District of Pennsylvania (Pittsburgh), the Eastern District of Michigan (Detroit), and the Northern District of Ohio (Toledo). Thus, no other district has as many related cases pending before it or as many plaintiffs as the Eastern District of Pennsylvania.

The Panel has frequently opted to consolidate cases before the court that manages the litigation’s first-filed complaint. *See, e.g., In re Dual-Deck Video Cassette Recorder Antitrust*

*Litig.*, 1988 U.S. Dist. LEXIS 17039, \*2 (J.P.M.L. Aug. 12, 1988) (stating that transfer to Arizona was appropriate because, *inter alia*, “the first-filed action [was] pending there”); *In re Baldwin-United Corp. Litig.*, 581 F. Supp. 739, 741 (J.P.M.L. 1984) (ordering transfer to New York, where the “first-filed and most advanced actions” were pending); *In re Hotel Tel. Charge Antitrust Litig.*, 341 F. Supp. 771, 773 (J.P.M.L. 1972) (stating that the most suitable transferee district was “where the first action was filed”). Here, the first case was the class action filed by Plaintiff Draper in the Eastern District of Pennsylvania on December 11, 2007, six weeks before the second action was filed.

The Panel also has consistently recognized a preference for a forum in which the greatest number of related cases is pending. *In re Oxycontin Antitrust Litig.*, 314 F. Supp. 2d 1388, 1390 (J.P.M.L. 2004); *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 196 F. Supp. 2d 1375, 1376 (J.P.M.L. 2002); *In re Temporomandibular Joint (TMJ) Implants Prods. Liab. Litig.*, 844 F. Supp. 1553, 1554 (J.P.M.L. 1994) (transferring twenty-nine actions to District of Minnesota where the greatest number of the actions were pending); *In re Folding Carton Antitrust Litig.*, 415 F. Supp. 384, 386 (J.P.M.L. 1976). Here, most of the Actions filed to date are currently pending in the Eastern District of Pennsylvania.

**B. The Eastern District of Pennsylvania is a Well-Suited and Convenient Forum for the Parties and Witnesses.**

In deciding whether a particular forum is convenient, the Panel has considered the location of the parties and potential witnesses relative to that district. *See In re CertainFeed Corp. Roofing Shingle Prods. Liab. Litig.*, 474 F. Supp. 2d 1357, 1358 (J.P.M.L. 2007) (concluding that the Eastern District of Pennsylvania was the appropriate transferee district where, *inter alia*, that district encompassed the headquarters of a common defendant); *In re Isolagen, Secs. & Derivative Litig.*, 416 F. Supp. 2d 1366, 1367 (J.P.M.L. 2006) (same); *In re*

*Air Fare Litig.*, 322 F. Supp. 1013, 1015 (J.P.M.L. 1971) (choosing a particular transferee district because it was “more convenient for counsel, and thus less expensive for their clients”).

This factor also favors the coordination or consolidation of the Actions in the Eastern District of Pennsylvania. In this case, Defendants Saint-Gobain Corporation, CertainTeed Corporation, and Saint-Gobain Glass Corporation (collectively, “Saint-Gobain”) maintain their principal places of business in Valley Forge, Pennsylvania, which is located within the Eastern District of Pennsylvania. Several defendants are located in Europe or Japan, and the Philadelphia metropolitan area’s central location and widespread transportation opportunities will provide easy accessibility for everyone involved in this litigation. Many of the counsel involved in the Related Actions are also located on the East Coast, and a relatively short distance from the Eastern District of Pennsylvania. Moreover, there is a well-developed support system for legal services and ample office space. *See In re Worldcom, Inc. Sec. & ERISA Litig.*, 226 F. Supp. 2d 1352, 1355 (J.P.M.L. 2002) (noting that “a litigation of this scope will benefit from centralization in a major metropolitan center that is well served by major airlines, provides ample hotel and office accommodations, and offers a well developed support system for legal services.”). This makes the Eastern District of Pennsylvania a convenient, centrally located forum for all parties.

**C. Relevant Documents and Potential Witnesses are Likely to be in or near the Eastern District of Pennsylvania.**

In determining the proper transferee forum, the Panel has also considered the nexus between the evidence and witnesses pertaining to related actions and the location of the MDL proceeding. *See In re Parcel Tanker Shipping Servs. Antitrust Litig.*, 296 F. Supp. 2d 1370, 1371 (J.P.M.L. 2003) (favoring transfer to Connecticut because one defendant was located there and documents and witnesses will likely be found there); *In re Carbon Black Antitrust Litig.*, 277 F.

Supp. 2d 1380, 1381 (J.P.M.L. 2003) (consolidating eight actions in the district where one defendant had its principal place of business).

Because Defendant Saint-Gobain maintains business operations in the Eastern District of Pennsylvania, many of the pertinent documents and discoverable materials there. By contrast, the Southern District of New York and the Western District of Pennsylvania have no relationship to the parties or events that give rise to this litigation, and it is thus unlikely that any relevant materials are located in those districts. Because the Eastern District of Pennsylvania is home to much of the relevant evidence and many witnesses in the related actions, it is a most appropriate transferee forum for these cases.

**D. The Eastern District of Pennsylvania has a Favorable Docket.**

The Panel has also considered the docket congestion of the potential forums in deciding where related actions should be transferred. *See, e.g., In re Air Crash Disaster at Taipei Int'l Airport*, 433 F. Supp. 1120, 1122 (J.P.M.L. 1977). Statistics on median time in civil actions between filing and trial, and median time in civil actions between filing and disposition are relevant. In *In re Preferential Drug Prods. Pricing Antitrust Litig.*, 429 F. Supp. 1027, 1029 (J.P.M.L. 1977), for example, the Panel transferred actions based in part on the transferee district's low median times between filing and disposition. The Panel has also considered the multidistrict litigation caseload of the potential transferee forums. *In re AT&T Corp. Sec. Litig.*, No. 1399, 2001 WL 34834425, at \*1 (J.P.M.L. Apr. 19, 2001). These and other relevant docket statistics clearly show that the Eastern District of Pennsylvania is the optimal transferee forum.

According to the Federal Court Management Statistics for the 12-month period ending September 30, 2006, the median time from filing to disposition for civil cases was 101.2 months in the Eastern District of Michigan, 13.5 months for the Northern District of Ohio, and 8.3 months for both the Southern District of New York and the Western District of Pennsylvania.

See <http://www.uscourts.gov/cgi-bin/cmsd2006.pl>. By contrast, the median time from filing to disposition for civil cases was only 1.0 month in the Eastern District of Pennsylvania, which ranks first among all district courts in the United States. *Id.*

Similarly, the median time from filing to trial for civil cases in the Eastern District of Pennsylvania (18.0 months) was less than all corresponding figures in jurisdictions where the Related Actions have been filed, including the Western District of Pennsylvania (33.5), the Southern District of New York (25.7 months), the Eastern District of Michigan (24.0 months), and the Northern District of Ohio (22.3 months). *Id.*

Because these figures suggest that the Eastern District of Pennsylvania has a much less congested docket than the Districts where the Related Actions are pending on an aggregate and median basis, this factor favors transfer of the related actions to the Eastern District of Pennsylvania. See *In re Laughlin Prods., Inc., Patent Litig.*, 240 F. Supp. 2d 1358, 1359 (J.P.M.L. 2003) (noting that the Eastern District of Pennsylvania “enjoys general caseload conditions permitting the Panel to effect the Section 1407 assignment to a court with the present resources to devote the time to pretrial matters that this docket is likely to require”).

**E. The Eastern District of Pennsylvania has a Wealth of Experience in Complex Antitrust Litigation and MDL Proceedings.**

Another factor that is frequently considered by the Panel is the experience of a potential transferee forum in managing multidistrict litigation. See, e.g., *In re Janus Mut. Funds Inv. Litig.*, MDL No. 1586, 2004 WL 360839 at \*2 (J.P.M.L. 2004).

As the Panel has recognized on numerous occasions, the Eastern District of Pennsylvania has the resources to handle complex litigation such as this. See, e.g., *Pharm. Benefit Managers*, 452 F. Supp. 2d at 1354 (“We are persuaded that the Eastern District of Pennsylvania, where two actions are currently pending, has the experience to steer this litigation on a prudent course.”).

Indeed, in light of the numerous cases transferred to that District by the MDL Panel, the Eastern District of Pennsylvania has very substantial experience in managing complex multidistrict litigation, particularly antitrust class actions.

**CONCLUSION**

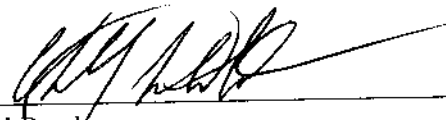
The Related Actions on Schedule A meet the criteria for transfer under 28 U.S.C. § 1407. Transfer would serve the interests of justice and economy by providing a single forum to determine common issues, thereby avoiding inconsistent rulings, as well as duplicative discovery and briefing. Transfer to the Eastern District of Pennsylvania would be convenient for the parties, and its docket would allow the litigation to proceed expeditiously.

The Eastern Pennsylvania Plaintiffs therefore respectfully request that their motion be granted and that the Related Actions on Schedule A be transferred pursuant to 28 U.S.C. § 1407 to the United States District Court for the Eastern District of Pennsylvania.

Dated: February 4, 2008

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**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

\_\_\_\_\_  
IN RE FLAT GLASS

ANTITRUST LITIGATION (NO. II)  
\_\_\_\_\_

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MDL DOCKET NO. \_\_\_\_\_

**PROOF OF SERVICE**


I, Rebecca R. Cohen, hereby certify that a copy of the foregoing:

- **MOTION OF PLAINTIFFS JOHN DRAPER D/B/A DRAPER'S AUTO GLASS, JACKSON GLASS COMPANY, INC., AND COLONIAL GLASS SOLUTIONS FOR TRANSFER AND COORDINATION OR CONSOLIDATION OF RELATED ANTITRUST ACTIONS TO THE EASTERN DISTRICT OF PENNSYLVANIA FOR PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. § 1407;**
- **MEMORANDUM OF LAW IN SUPPORT OF MOTION OF PLAINTIFFS JOHN DRAPER D/B/A DRAPER'S AUTO GLASS, JACKSON GLASS COMPANY, INC., AND COLONIAL GLASS SOLUTIONS FOR TRANSFER AND CONSOLIDATION OF RELATED ANTITRUST ACTIONS IN THE EASTERN DISTRICT OF PENNSYLVANIA FOR PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. § 1407 AND EXHIBITS.**

and this Proof of Service was served on the parties on the attached Service List by First Class Mail

on February 4, 2008.

Dated: February 4, 2008

  
\_\_\_\_\_  
Rebecca R. Cohen, Esq.

Service List

District Courts

United States District Court  
Eastern District of Pennsylvania  
Office of the Clerk of Court  
United States Courthouse  
601 Market Street, Room 2609  
Philadelphia, PA 19106-1797

United States District Court  
Western District of Pennsylvania  
United States Courthouse  
700 Grant Street  
Pittsburgh, PA 15219

United States District Court  
Northern District of Ohio  
114 United States Courthouse  
1716 Spielbusch Avenue  
Toledo, Ohio 43604-1363

United States District Court  
Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

United States District Court  
Eastern District of Michigan  
Clerk's Office  
Theodore Levin U.S. Courthouse

231 W. Lafayette Blvd., Room 564  
Detroit, MI 48226

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