

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: WELDING FUME PRODUCTS  
LIABILITY LITIGATION**

James H. Baxter, et al. v. Airgas-Gulf States, Inc., et al.,	)	
N.D. Ohio, C.A. No. 1:08-17037	)	MDL No. 1535
(S.D. Mississippi, C.A. 1:08-00307)	)	

**ORDER DENYING REMAND**

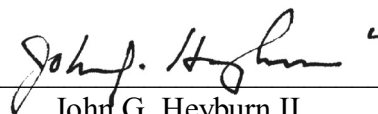
**Before the Panel:** Pursuant to Rule 10.3, plaintiffs in the *Baxter* action, which was previously transferred from the Southern District of Mississippi to MDL No. 1535, move for an order remanding the action to the Southern District of Mississippi. Responding defendants ESAB Group, Inc., Hobart Brothers Co., Lincoln Electric Co., and The BOC Group, Inc., oppose the motion.

After considering all arguments of counsel, we conclude that remand is not appropriate at this time, and therefore will deny plaintiffs' motion. In considering the question of Section 1407 remand, we have consistently accorded great weight to the transferee judge's determination that remand of a particular action at a particular time is appropriate, as that judge has supervised the day-to-day pretrial proceedings in the MDL. *See In re Holiday Magic Sec. & Antitrust Litig.*, 433 F. Supp. 1125, 1126 (J.P.M.L. 1977). The transferee judge's suggestion of remand to the Panel, *see* Rule 10.1(b), is an indication that the judge perceives her role under Section 1407 to have ended. *See In re: Columbia/HCA Healthcare Corp. Qui Tam Litig. (No. II)*, 560 F. Supp. 2d 1349, 1350 (J.P.M.L. 2008).

Here, Judge Kathleen M. O'Malley has not yet issued a suggestion of remand concerning *Baxter*. In fact, Judge O'Malley has twice denied plaintiffs' requests for a suggestion of remand, in which plaintiffs advanced roughly similar arguments to those they now make before us. Moving plaintiffs have failed to offer the Panel a compelling reason why we should disregard the transferee judge's well-supported opinions and order remand in the absence of her suggestion of remand to the Panel, and we decline their invitation to do so.

IT IS THEREFORE ORDERED that the motion for Section 1407 remand of this action is denied.

PANEL ON MULTIDISTRICT LITIGATION



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John G. Heyburn II  
Chairman

W. Royal Furgeson, Jr.  
Barbara S. Jones  
Marjorie O. Rendell

Kathryn H. Vratil  
Paul J. Barbadoro  
Charles R. Breyer