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Ruling limits number of Toyota claims

A&B PARTNER CONVINCES JUDGE that consumers who lived in or purchased vehicles in other states should not be allowed to pursue damages under California law

AMANDA BRONSTAD | abronstad@alm.com

A FEDERAL JUDGE has dealt a major blow to the lead plaintiffs' attorneys in the multidistrict litigation against Toyota Motor Corp. over sudden acceleration claims, dramatically reducing the size of a potential class action filed on behalf of consumers.

Accepting arguments made by an Alston & Bird partner on behalf of Toyota, U.S. District Judge James Selna ruled on June 8 that consumers who relied upon Toyota's guarantees of reliability and safety should not be allowed to pursue economic damages under California's state law if they lived or purchased their vehicles in another state.

While applying California law would not impair Toyota's due process rights, Selna said, plaintiffs' attorneys who made the "strategic" decision to file all the consumer claims as a master consolidated complaint in California should not be allowed to dictate which law is used.

FILE PHOTO

Cari Dawson argued that proceeding under California law would violate Toyota's right to defend itself.

Doing so, Selna said, would run afoul of previous U.S. Supreme Court decisions and "would undermine the purposes" of multidistrict litigation.

> **“An MDL proceeding … is merely a collection of individual cases, combined to achieve efficiencies in pretrial proceedings. MDL courts cannot lose sight of the separate and distinct nature of those actions.**
>
> —Judge James Selna

Plaintiffs’ attorneys, pressing about 200 consumer claims through a master consolidated complaint in the multidistrict litigation, had hoped to pursue economic damages for a proposed nationwide class under the relatively more permissive California law. With the judge’s ruling, the prospect of a large class action with huge liabilities against Toyota was wiped out.

Toyota immediately praised the ruling.

“We’re gratified the court has recognized that allowing a few handpicked plaintiffs to set the course for customers throughout the United States through this kind of ‘procedural engineering’ would go against established law, diminish Toyota’s substantive rights and undermine the purposes of these multidistrict proceedings,” Toyota spokeswoman Celeste Migliore said in a prepared statement.

Toyota said that more than 70 percent of the consumer cases in the MDL were filed in other states.

Steve Berman, managing partner of Seattle’s Hagens Berman Sobol & Shapiro and co-lead counsel on the plaintiffs’ steering committee for the economic claims, did not respond to a request for comment.

The “choice of law” argument did not pertain to the 100 personal injury and wrongful death cases filed against Toyota in the MDL.

The issue became heated during a May 16 hearing in which plaintiffs’ attorneys asserted several California connections: Toyota Motor Sales USA Inc., a division of Toyota, was based in Torrance, Calif., and the master consolidated complaint had been filed in federal court before Selna, who sits in Santa Ana, Calif. Additionally, they argued, class members who didn’t want to pursue damages under California law could opt out.

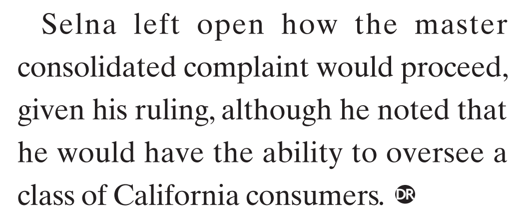
Toyota lead counsel Cari K. Dawson, a partner at Atlanta’s Alston & Bird, argued that proceeding under California law would violate Toyota’s right to defend itself, particularly because it would be unable to use substantive arguments that would apply under other state laws.

Selna appeared persuaded by that argument, noting that in several states—Alabama, North Dakota, Ohio, Pennsylvania and Wisconsin—Toyota stood a good chance of dismissing claims brought by consumers whose vehicles had “manifested no defect.” A nationwide class under California law would “drastically expand the scope of relief” at Toyota’s detriment. The same goes for claims of warranty of merchantability and statutes of limitations, he said.

Selna also appeared persuaded by the U.S. Supreme Court’s prior “choice of law” decisions, particularly its 1985 ruling in *Phillips Petroleum Co. v. Shutts*, which involved claims brought across the country seeking interest on royalty payments for natural gas extracted from land leased by an Oklahoma company. The court rejected the application of Kansas state law, holding that 97 percent of the plaintiffs had no connection to that state.

Selna also distinguished a single consolidated complaint filed in California from an MDL.

“Thus, an MDL proceeding like the present one is merely a collection of individual cases, combined to achieve efficiencies in pretrial proceedings,” he said. “MDL courts cannot lose sight of the separate and distinct nature of those actions.”



Selna left open how the master consolidated complaint would proceed, given his ruling, although he noted that he would have the ability to oversee a class of California consumers. DR

Amanda Bronstad writes for The National Law Journal, *an affiliate of the* Daily Report *in which a version of this article first appeared.*

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