UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: DIRECTV, INC., EARLY CANCELLATION FEE MARKETING AND SALES PRACTICES LITIGATION

Jo Murray v. DirecTV, Inc., W.D. Arkansas)
C.A. No. 4:12-04156) MDL No. 2093

TRANSFER ORDER

Before the Panel:[*] Pursuant to Panel Rule 7.1, plaintiff moves to vacate our order conditionally transferring this action (*Murray*) to MDL No. 2093. Defendant DirecTV, Inc., (DirecTV) opposes the motion.

The actions encompassing MDL No. 2093 involve allegations that defendant DirecTV commits its customers to minimum programming terms for satellite television service without their knowledge or consent and unlawfully charges an early termination fee if the customer cancels service prior to the expiration of that programming term. *See In re DirecTV, Inc., Early Cancellation Fee Mktg. & Sales Practices Litig.*, 655 F. Supp. 2d 1369, 1370 (J.P.M.L. 2009). Plaintiff in the *Murray* action represents a certified class of Arkansas residents who paid an early cancellation fee in connection with DirecTV satellite television service. Plaintiff argues her action is not appropriate for inclusion in MDL No. 2093 because her action is too far advanced to benefit from centralization. Indeed, the Arkansas Supreme Court has affirmed the state trial court's grant of class certification and denial of defendant's motion to compel arbitration. Plaintiff argues that all that remains to be done before her claims can be tried is the completion of discovery and notification to class members.

After considering all argument of counsel, we find that this action indisputably involves common questions of fact with the actions previously transferred to MDL No. 2093, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. As DirecTV argues, the Arkansas Supreme Court's ruling affirming the denial of defendant's motion to compel arbitration applies only to plaintiff, and does not reach the enforceability of the arbitration agreements as to every other class member. *See DirecTV, Inc. v. Murray*, 2012 Ark. 366, 2012 WL 4712206, at *8, 10 (Ark. Oct. 4, 2012). Thus, the threshold issue of whether Arkansas class members must arbitrate their claims is still unresolved. Transfer will allow a single court to efficiently and consistently address this issue. The MDL No. 2093 transferee court is quite familiar with defendant's customer agreements and the enforceability of their arbitration provisions. In contrast, while the *Murray* action has been pending for three years, it was only recently removed to federal court, and therefore the transferor court has yet to expend a great deal of time and resources on this action. Transfer will benefit this action and the litigation as a whole, as the

[*] Judge John G. Heyburn II did not participate in the disposition of this matter.

transferee court can apply its relevant knowledge to the remaining issues in this case, and coordinate any remaining discovery with that remaining in MDL No. 2093.

We are not persuaded by plaintiff's claims of inconvenience. The Panel has repeatedly held that, while it might inconvenience some parties, transfer of a particular action often is necessary to further the expeditious resolution of the litigation taken as a whole. *See, e.g., In re: Crown Life Ins. Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Central District of California and, with the consent of that court, assigned to the Honorable Andrew J. Guilford for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

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