

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: JIFFY LUBE INTERNATIONAL, INC.
TEXT SPAM LITIGATION**

Jacob Barr v. Oil Express, Inc., et al., W.D. Washington,)
C.A. No. 2:12-cv-00237)

MDL No. 2261

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiff moves to vacate our order conditionally transferring this action (*Barr*) to MDL No. 2261. Defendants Oil Express, Inc., d/b/a Jiffy Lube (Jiffy Lube), and Heartland Automotive Services, Inc. (Heartland) oppose the motions.

In support of his motion to vacate, plaintiff argues that federal jurisdiction does not exist in this case, as demonstrated in his pending motion to remand to state court. Plaintiff also argues that the discovery needs of his case will differ in some respects from those in the MDL and transfer will inconvenience the putative class members who all reside in Washington state. We find these arguments unpersuasive. After the filing of plaintiff's motion to vacate, the transferor judge denied plaintiff's motion for remand, holding that federal jurisdiction exists under the Class Action Fairness Act. Moreover, while transfer of a particular action might inconvenience some parties to that action, such transfer is often 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).

After considering all argument of counsel, we find that the action shares questions of fact with actions in this litigation previously transferred to the Southern District of California, and that transfer of this action to the Southern District of California for inclusion in MDL No. 2261 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Like many of the already-centralized actions, the *Barr* action involves factual questions arising from allegations that Jiffy Lube and Heartland sent unsolicited commercial text messages to a wireless telephone number without prior express consent. *See In re Jiffy Lube Int'l, Inc., Text Spam Litig.*, 802 F. Supp. 2d 1367, 1368 (J.P.M.L. 2011). The unsolicited text message alleged in the *Barr* action is the same as the one in MDL No. 2261, and allegedly was sent on or about the same date. Discovery will be substantially the same, including, *inter alia*, whether and how defendants assisted in the transmission of the text messages and whether the recipients consented to receiving the text messages.

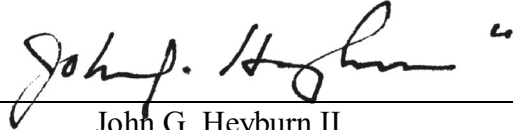
IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the Southern District of California and, with the consent of that court, assigned to the Honorable

* Judge Kathryn H. Vratil took no part in the decision of this matter.

-2-

Jeffrey T. Miller for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink that reads "John G. Heyburn II". The signature is written in a cursive style with a horizontal line underneath it.

John G. Heyburn II
Chairman

W. Royal Furgeson, Jr. Barbara S. Jones
Paul J. Barbadoro Marjorie O. Rendell
Charles R. Breyer