

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: PORTFOLIO RECOVERY ASSOCIATES,
LLC, TELEPHONE CONSUMER PROTECTION
ACT (TCPA) LITIGATION**

MDL No. 2295

ORDER VACATING CONDITIONAL TRANSFER ORDER

Before the Panel: Plaintiff in the action listed on Schedule A (*Andasola*) moves under Panel Rule 7.1 to vacate our order that conditionally transferred *Andasola* to the Southern District of California for inclusion in MDL No. 2295. Defendant Portfolio Recovery Associates, LLC (Portfolio) did not respond to the motion.

The actions in MDL No. 2295 involve allegations that Portfolio violated the federal Telephone Consumer Protection Act (TCPA) by placing debt collection calls to debtors' cellular telephones using an automated system, without the debtors' consent. *See In re Portfolio Recovery Assocs., LLC, Tel. Consumer Prot. Act. Litig.*, 846 F. Supp. 2d 1380, 1381 (J.P.M.L. 2011). Plaintiff, who is proceeding *pro se*, argues that: (1) transfer to MDL No. 2295 would cause her inconvenience; (2) transfer is inappropriate because she alleges a claim for violation of the Fair Debt Collection Practices Act (FDCPA), in addition to claims for violation of the TCPA; and (3) *Andasola* is not appropriate for inclusion in MDL No. 2295 because she has moved to voluntarily dismiss her claims that Portfolio violated the TCPA by placing debt collection calls to her cellular telephone.

We find plaintiff's latter argument convincing. At this juncture, we conclude that transfer of *Andasola* is not warranted in order to serve the convenience of the parties and witnesses or further the just and efficient conduct of this litigation. Motions to dismiss pending in the transferor court ordinarily are not an impediment to transfer. Here, though, plaintiff has moved to voluntarily dismiss her TCPA claims. Portfolio opposes this motion only to the extent that plaintiff seeks dismissal without prejudice. Thus, a reasonable prospect exists that the common questions of fact shared by *Andasola* and the actions previously transferred to MDL No. 2295 could be eliminated by resolution of plaintiff's motion. Additionally, the parties have filed notice of a potential settlement in the transferor court. In the event that this action is not resolved by settlement and the transferor court denies plaintiff's motion to dismiss, the parties may again notice *Andasola* as a potential tag-along.

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IT IS THEREFORE ORDERED that the Panel's conditional transfer order designated as "CTO-46" is vacated insofar as it relates to the *Andasola* action.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "Sarah S. Vance", is positioned above a horizontal line.

Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

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SCHEDULE A

District of Arizona

ANDASOLA v. PORTFOLIO RECOVERY ASSOCIATES LLC, C.A. No. 2:14-02635