

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

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

MDL No. 2295

TRANSFER ORDER

Before the Panel: *Pro se* plaintiff in the action listed on Schedule A moves under Panel Rule 7.1 to vacate our order conditionally transferring this action to MDL No. 2295. Defendant Portfolio Recovery Associates, LLC (Portfolio) opposes the motion.

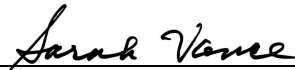
The actions in MDL No. 2295 involve allegations that Portfolio violated the federal Telephone Consumer Protection Act (TCPA) by placing debt collection calls to debtors' cellular telephones using an automated system (autodialer), without the debtors' consent. *See In re: Portfolio Recovery Assoc., LLC, Tel. Consumer Prot. Act. Litig.*, 846 F. Supp. 2d 1380, 1381 (J.P.M.L. 2011). Plaintiff alleges that Portfolio violated the TCPA by placing debt collection calls to his cellular telephone using an autodialer, without his consent. Plaintiff does not dispute that his action shares questions of fact with the actions in MDL No. 2295, but opposes transfer only to preserve his rights to have considered the claims in his amended complaint. Indeed, he states he is "not necessarily objecting to transfer," if his amended complaint is considered by the transferee court, and if he is allowed discovery on his amended claim.

Plaintiff was granted leave and filed an amended complaint in the Middle District of Pennsylvania and his amended complaint is the operative pleading, regardless of whether a conditional transfer order was pending. *See* Panel Rule 2.1(d) ("The pendency of a motion, order to show cause, conditional transfer order or conditional remand order before the Panel pursuant to 28 U.S.C. § 1407 does not affect or suspend orders and pretrial proceedings in any pending federal district court action and does not limit the pretrial jurisdiction of that court."). Regarding plaintiff's desire to take discovery, when MDL plaintiffs are permitted to take case-specific discovery is an issue to be decided by the transferee judge. *See In re: Conseco Life Ins. Co. Lifetrend Ins. Mktg. & Sales Practices Litig.*, 672 F. Supp. 2d 1372, 1373 (J.P.M.L. 2010). Transfer may result in some delay in plaintiff's ability to take discovery, but we have held that, while transfer of a particular action might inconvenience some parties to that action, such a transfer is often necessary to further the expeditious resolution of the litigation taken as a whole. *See, e.g., In re: Crown Life Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001).

-2-

IT IS THEREFORE ORDERED that this action is transferred to the Southern District of California and, with the consent of that court, assigned to the Honorable John A. Houston for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

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

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

**IN RE: PORTFOLIO RECOVERY ASSOCIATES,
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ACT (TCPA) LITIGATION**

MDL No. 2295

SCHEDULE A

Middle District of Pennsylvania

HOOVER v. PORTFOLIO RECOVERY ASSOCIATES, LLC, C.A. No. 1:16-02418