

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:** Plaintiff moves under Panel Rule 7.1 to vacate our order conditionally transferring this action (*Piller*) 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 in *Piller* alleges that Portfolio violated the TCPA, the Fair Debt Collection Practices Act (FDCPA), and the Florida Consumer Collection Practices Act (FCCPA) by placing debt collection calls to his cellular telephone using an autodialer, without his consent. Plaintiff argues that *Piller* should not be included in MDL No. 2295 because (1) the FDCPA and FCCPA claims are the focus of the action; (2) *Piller* alleges a unique state law claim and does not include class claims; (3) transfer would place an undue burden on plaintiff; and (4) the MDL is too far advanced for transfer to be beneficial.

After considering the argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2295, and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Plaintiff does not dispute that his TCPA claim and those in the MDL involve common factual questions. The presence of plaintiff's FDCPA and FCCPA claims is not a bar to transfer. *See In re: Satyam Computer Servs., Ltd., Sec. Litig.*, 712 F. Supp. 2d 1381, 1382 (J.P.M.L. 2010). In particular, we have rejected the argument that an action should not be included in MDL No. 2295 because it alleges unique state law claims. *See Transfer Order (Baker)*, MDL No. 2295, ECF No. 136 (J.P.M.L. Jun. 11, 2013). Indeed, we recently transferred over plaintiff's objections a similar Middle District of Florida action bringing claims under the FDCPA and the FCCPA, as well as the TCPA. *See Transfer Order (Shotts)* at 1, MDL No. 2295, ECF No. 539 (J.P.M.L. Apr. 7, 2016).

We are sympathetic to plaintiff's concerns about inconvenience, but are not persuaded that they justify exclusion of this action from centralized proceedings. The Panel has held repeatedly

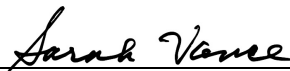
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that, while it might inconvenience some parties, transfer of a particular action often is necessary to further the expeditious resolution of the litigation taken as a whole. *See, e.g., In re: IntraMTA Switched Access Charges Litig.*, 67 F. Supp. 3d 1378, 1380 (J.P.M.L. 2014). The transferee judge is in the best position to structure proceedings so as to minimize inconvenience to any individual party.

We are not persuaded that MDL No. 2295 is so far advanced that transfer of related actions no longer is appropriate. This litigation was stayed for more than a year pending the Federal Communication Commission's order clarifying the definition of an autodialer. A class settlement was announced less than six months after the stay was lifted, and a motion for preliminary approval was granted only recently.

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



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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**

Middle District of Florida

PILLER v. PORTFOLIO RECOVERY ASSOCIATES, LLC, C.A. No. 2:16-00124