

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: PORTFOLIO RECOVERY ASSOCIATES, LLC
TELEPHONE CONSUMER PROTECTION ACT LITIGATION

Lee Arthur Momient v. Portfolio Recovery Associates LLC,)
N.D. Illinois, C.A. No. 1:13-04648) MDL No. 2295

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiff moves to vacate our order conditionally transferring this action (*Momient*) to MDL No. 2295. Defendant Portfolio Recovery Associates, LLC (Portfolio), opposes the motion.

The actions encompassing 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 Assoc., LLC, Tel. Consumer Prot. Act. Litig.*, 846 F. Supp. 2d 1380, 1381 (J.P.M.L. 2011). Plaintiff argues that his action is not appropriate for inclusion in MDL No. 2295 because, *inter alia*, (1) he is proceeding *pro se* and transfer would be inconvenient and burdensome; and (2) his action is unique from those in MDL No. 2295 because he alleges calls that took place after September 2012 and does not allege the use of skip tracing.

After considering all argument of counsel and plaintiff, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2295, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. There has been no suggestion from the Panel or the transferee court that the claims in this MDL are limited to those involving calls placed before September 2012 or the use of skip tracing. Like the actions in MDL No. 2295, plaintiff alleges that defendant Portfolio called plaintiff's cellular telephone without his permission using an automatic dialing system in violation of the TCPA. If the transferee judge determines after close scrutiny that remand of any claims is appropriate, procedures are available whereby this may be accomplished with a minimum of delay. *See* Panel Rule 10.1.

We are sympathetic to plaintiffs' concerns about inconvenience, but are unpersuaded that they justify exclusion of this action from centralized proceedings. The Panel repeatedly has 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). The transferee judge is in the best position to structure proceedings so as to minimize inconvenience to any individual party.

* Judge Sarah S. Vance did not participate in the disposition of this matter.

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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 John A. Houston for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written above a horizontal line. The signature is cursive and includes a small mark at the end.

John G. Heyburn II
Chairman

Kathryn H. Vratil
Marjorie O. Rendell
Lewis A. Kaplan

Paul J. Barbadoro
Charles R. Breyer