

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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

David Bauer v. Portfolio Recovery Associates, LLC,)
M.D. Florida, C.A. No. 8:12-1133) MDL No. 2295

TRANSFER ORDER

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

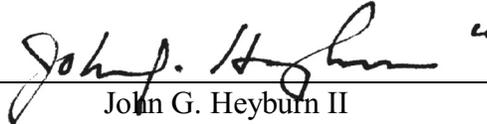
The actions encompassing MDL No. 2295 involve allegations that Portfolio violated the federal Telephone Consumer Protection Act (TCPA) by placing debt collection calls to debtors' cellular telephones using an automated system, without the debtors' consent. *See In re: Portfolio Recovery Assoc., LLC, Tel. Consumer Prot. Act. Litig.*, MDL No. 2295, 2011 U.S. Dist. LEXIS 147847 (J.P.M.L. Dec. 21, 2011). Plaintiffs argue that their action is not appropriate for inclusion in MDL No. 2295 because it differs from the actions involved in the MDL in that it (1) involves individual claims for damages, rather than class claims; and (2) brings claims for violation of the Fair Debt Collection Practices Act (FDCPA).

After considering all argument of counsel, 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. The Panel considered and rejected the same arguments made by plaintiff in transferring the *McCormick* action over plaintiffs' objections after the May 2012 hearing session. *See* MDL No. 2295, Transfer Order, Jun. 8, 2012. The *McCormick* action also involves claims under the FDCPA and individual claims for damages, rather than class claims. Like the MDL No. 2295 actions, *Bauer* involves allegations that defendant Portfolio called plaintiff's cellular telephone without his permission using an automatic dialing system in violation of the TCPA. The Panel has long held that the presence of unique 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). 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.

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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 over a horizontal line.

John G. Heyburn II
Chairman

Kathryn H. Vratil
Barbara S. Jones
Marjorie O. Rendell

W. Royal Furgeson, Jr.
Paul J. Barbadoro
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