

**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 in the action listed on Schedule A (*Miller*) moves under Panel Rule 7.1 to vacate our order that conditionally transferred *Miller* to the Southern District of California for inclusion in 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, 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 in *Miller* similarly alleges that Portfolio violated the TCPA. Plaintiff, who is proceeding *pro se*, argues that his action is not appropriate for inclusion in MDL No. 2295 because (1) transfer of an action that has already been removed from state court to federal court constitutes an impermissible "additional transfer"; (2) plaintiff asserts a unique non-TCPA claim, namely a claim for violation of the Fair Debt Collection Practices Act (FDCPA); and (3) transfer would cause plaintiff to suffer prejudice and inconvenience.

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. We long ago rejected the argument that Section 1407 transfer following removal of an action from state court is impermissible, and this argument merits no further discussion. *See In re Antibiotic Drugs*, 299 F. Supp. 1403, 1405-06 (J.P.M.L. 1969). With respect to plaintiff's second argument, MDL No. 2295 already includes numerous actions alleging claims under the FDCPA. *See, e.g., Transfer Order at 1, In re Portfolio Recovery Assocs., LLC, Tel. Consumer Prot. Act (TCPA) Litig.*, MDL No. 2295 (J.P.M.L. Feb. 14, 2014), ECF No. 233. Moreover, 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).

As to plaintiff's final argument against transfer, we are sympathetic to his concerns about inconvenience. But, we are unpersuaded that these concerns 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

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litigation taken as a whole. *See, e.g., In re IntraMTA Switched Access Charges Litig.*, MDL No. 2587, \_\_\_ F. Supp. 3d \_\_\_, 2014 WL 7263472, at \*2 (J.P.M.L. Dec. 16, 2014). The transferee judge is in the best position to structure proceedings so as to minimize inconvenience to any individual party.

IT IS THEREFORE ORDERED that the action listed on Schedule A 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 occurring there in this docket.

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**

Eastern District of Virginia

MILLER v. PORTFOLIO RECOVERY ASSOCIATES, LLC., C.A. No. 3:14-00865