

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: SCIENCE APPLICATIONS INTERNATIONAL CORP.
(SAIC) BACKUP TAPE DATA THEFT LITIGATION**

MDL No. 2360

**ORDER DENYING MOTION TO REOPEN MDL
AND TRANSFER ACTION**

Before the Panel:* Defendant Leidos, Inc. (formerly known as Science Applications International Corp. (SAIC)) moves under 28 U.S.C. § 1407(c) to reopen this MDL, and to transfer to the MDL the Eastern District of California action (*Fernandez*) listed on the attached Schedule A. The *Fernandez* plaintiff opposes the motion.

After considering the argument of counsel, we conclude that reopening this MDL for the purpose of transferring *Fernandez* to it would not serve the convenience of the parties and witnesses or promote the just and efficient conduct of the litigation. It is undisputed that *Fernandez* shares factual issues with the actions once pending in MDL No. 2360, which we centralized in June 2012, in the District of the District of Columbia. *See In re: Science Applications Int’l Corp. (SAIC) Backup Data Theft Litig.*, 870 F. Supp. 2d 1380 (J.P.M.L. 2012). Those actions involved factual issues “aris[ing] out of the September 2011 theft of computer tapes containing personally identifiable and protected health information of approximately 4.9 million active duty and retired service members and their families.”¹ *Id.* at 1381. Nevertheless, proceedings in the MDL have been completed since June 2014, after the transferee judge, the Honorable James E. Boasberg,² largely granted defendants’ motion to dismiss.³ Moreover, because no discovery was conducted in the MDL before that ruling,

* Judge Charles R. Breyer took no part in the decision of this matter.

¹ SAIC is (or was) a contractor for TRICARE, which manages the TRICARE health care program for active duty and retired service members and their families. The tapes reportedly were stolen in San Antonio, Texas, from the unattended, parked car of an SAIC employee, and the data on the tapes included names, Social Security numbers, addresses, diagnoses, treatment information, provider names, provider locations, and other patient data.

² The MDL was reassigned to Judge Boasberg in January 2014, following the elevation of the initial transferee judge to the United States Court of Appeals for the District of Columbia Circuit.

³ In that ruling, the judge held that all but two plaintiffs lacked Article III standing. *See In re: Science Applications Int’l Corp. (SAIC) Backup Tape Data Theft Litig.*, – F. Supp. 2d –, 2014

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transfer of *Fernandez* would not result in many of the efficiencies typically associated with transfer of later-filed tag-alongs (*e.g.*, easier access to common discovery). Finally, given that *Fernandez* is both the only related action now pending and a putative California-wide class action brought by a California resident, we are not persuaded that transferring it across the country at this juncture would achieve significant efficiencies for the parties and their counsel, or substantially lessen the burden on witnesses.

IT IS THEREFORE ORDERED that the motion to reopen this MDL and to transfer the *Fernandez* action is denied.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Ellen Segal Huvelle
Catherine D. Perry

Lewis A. Kaplan
R. David Proctor

**IN RE: SCIENCE APPLICATIONS INTERNATIONAL CORP.
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SCHEDULE A

Eastern District of California

FERNANDEZ v. LEIDOS, INC., ET AL., C.A. No. 2:14-02247