

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: BALLY TOTAL FITNESS HOLDING CORP.
LIFETIME MEMBERSHIP AGREEMENT CONTRACT
LITIGATION**

MDL No. 2369

ORDER DENYING TRANSFER

Before the Panel: Pursuant to 28 U.S.C. § 1407, plaintiffs in two actions move for centralization of this litigation in the Northern District of Illinois. This litigation currently consists of three actions pending in three districts, as listed on Schedule A.¹ Defendant LA Fitness International, LLC (LA Fitness) supports centralization in the Northern District of Illinois. Defendant Bally Total Fitness Holding Corporation (Bally) opposes centralization.

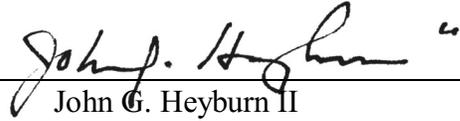
On the basis of the papers filed and the hearing session held, we will deny the motion for centralization. Although the three actions share some factual issues regarding whether Bally lifetime membership agreements were breached by defendants after LA Fitness acquired numerous Bally clubs in late 2011, we are unconvinced, on the record before us, that those issues are sufficiently complex or numerous to warrant the creation of an MDL. Given that apparent lack of complexity, the small number of involved actions, and the correspondingly limited number of involved counsel, we conclude that centralization would not necessarily serve the convenience of the parties and witnesses or promote the just and efficient conduct of the actions. In these circumstances, informal cooperation among counsel and coordination among the involved courts are, in our judgment, preferable to formal centralization. Various mechanisms are available to minimize or eliminate the possibility of duplicative discovery even without an MDL. Notices of deposition can be filed in all related actions; the parties can stipulate that any discovery relevant to more than one action can be used in all those actions; or the involved courts may direct the parties to coordinate their pretrial activities. *See In re Crest Sensitivity Treatment and Prot. Toothpaste Mktg. and Sales Practices Litig.*, — F. Supp. 2d —, 2012 WL 2175780, at *1 (J.P.M.L. June 11, 2012).

IT IS THEREFORE ORDERED that the motion, pursuant to 28 U.S.C. § 1407, for centralization of these actions is denied.

¹ At oral argument, the parties notified the Panel of one additional related action in the District of New Jersey.

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PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is positioned above a horizontal line. The signature is written in a cursive style with a double underline at the end.

John G. Heyburn II
Chairman

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

W. Royal Furgeson, Jr.
Paul J. Barbadoro
Charles R. Breyer

**IN RE: BALLY TOTAL FITNESS HOLDING CORP.
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SCHEDULE A

Central District of California

Eugene Fridman, et al. v. Bally Total Fitness Holding Corp., et al., C.A. No. 2:12-00707

Northern District of Illinois

Jennifer Grabianski, et al. v. Bally Total Fitness Holding Corp., et al., C.A. No. 1:12-00284

Eastern District of Pennsylvania

Blaise Tobia, et al. v. Bally Total Fitness Holding Corp., et al., C.A. No. 2:12-01198