

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

IN RE: CAPITAL ONE TELEPHONE CONSUMER  
PROTECTION ACT (TCPA) LITIGATION

MDL No. 2416

ORDER VACATING CONDITIONAL TRANSFER ORDER

**Before the Panel:** Plaintiff in the District of New Jersey action (*Cotugno*) listed on the attached Schedule A moves under Panel Rule 7.1 to vacate our order conditionally transferring her action to the Northern District of Illinois for inclusion in MDL No. 2416. Responding defendants Capital One Bank (USA), N.A., Capital One Financial Corporation, Capital One Services, LLC, and Capital One, N.A. (collectively Capital One) do not oppose the motion.

After considering the argument of counsel, we grant plaintiff's motion. The allegations in *Contugno* encompass only alleged conduct that post-dates the time period covered by the class settlement reached in the MDL, and implicate practices that Capital One implemented in connection with that settlement. As Capital One asserts, it thus is appropriate to conduct discovery in *Contugno* on an individual basis.

IT IS THEREFORE ORDERED that the Panel's conditional transfer order designated as "CTO-31" is vacated as to the *Cotugno* action.

PANEL ON MULTIDISTRICT LITIGATION



---

Sarah S. Vance  
Chair

Marjorie O. Rendell  
Lewis A. Kaplan  
R. David Proctor

Charles R. Breyer  
Ellen Segal Huvelle  
Catherine D. Perry

**IN RE: CAPITAL ONE TELEPHONE CONSUMER  
PROTECTION ACT (TCPA) LITIGATION**

MDL No. 2416

**SCHEDULE A**

District of New Jersey

COTUGNO v. CAPITAL ONE BANK (USA), N.A., ET AL., C.A. No. 2:15-03249