

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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

MDL No. 2416

TRANSFER ORDER

Before the Panel: Plaintiff in the Northern District of Alabama action (*Williams*) listed on the attached Schedule A moves under Panel Rule 7.1 to vacate our order conditionally transferring his action to the Northern District of Illinois for inclusion in MDL No. 2416.¹ Responding defendants Capital One Bank (USA), N.A., Capital One Financial Corporation, Capital One Services, LLC, and Capital One, N.A. (collectively Capital One) oppose the motion.

In support of his motion, the *Williams* plaintiff argues that he would be inconvenienced by transfer, cites the class settlement reached in the MDL, and asserts that his case may never be remanded to the transferor court. We do not find these arguments convincing. In deciding issues of Section 1407 transfer, we look to the overall convenience of the parties and witnesses – not just that of a single plaintiff in isolation.² The class settlement also does not constitute sufficient grounds to warrant vacatur.³ There are a number of opt-out actions pending in the transferee court, and pretrial proceedings are ongoing. Finally, we have no reason to believe that the transferee judge will decline to suggest remand of *Williams* at the appropriate time, if the action is not resolved in the transferee district.

After considering the parties' arguments, we find that *Williams* involves common questions of fact with actions previously transferred to MDL No. 2416, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The centralized actions share factual issues "regarding Capital One's policies and procedures with respect to the placement of collection calls, as well as its policies and procedures for obtaining and recording a consumer's consent to receive such calls." *See In re: Capital One Tel. Consumer Prot. Act Litig.*, 908 F. Supp. 2d 1366, 1367 (J.P.M.L. 2012). Plaintiff does not dispute that his action implicates those issues.

¹ Plaintiff is proceeding *pro se*.

² *See In re: ClassicStar Mare Lease Litig.*, 528 F. Supp. 2d 1345, 1347 (J.P.M.L. 2007).

³ *E.g., In re: Armored Car Antitrust Litig.*, 462 F. Supp. 394, 395-96 (J.P.M.L. 1978).

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IT IS THEREFORE ORDERED that the *Williams* action is transferred to the Northern District of Illinois and, with the consent of that court, assigned to the Honorable Elaine E. Bucklo for inclusion in the coordinated or consolidated pretrial proceedings.

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

Northern District of Alabama

WILLIAMS v. CAPITAL ONE BANK USA NA, ET AL., C.A. No. 5:14-02173