

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: CAPITAL ONE TELEPHONE CONSUMER  
PROTECTION ACT LITIGATION**

Michael Beeson, et al. v. Capital One Bank (U.S.A.), N.A., et al., )  
S.D. California, C.A. No. 3:13-00385 ) MDL No. 2416

**TRANSFER ORDER**

**Before the Panel:** Pursuant to Panel Rule 7.1, plaintiffs in this action (*Beeson*) have moved to vacate our order conditionally transferring the action to the Northern District of Illinois for inclusion in MDL No. 2416. Responding defendant Capital One Bank (USA), N.A. (Capital One), opposes the motion to vacate.

In opposing transfer, the *Beeson* plaintiffs argue that their action involves California law claims raising unique factual issues (regarding, for example, whether Capital One is a debt collector, whether Capital One contacted plaintiffs despite knowing that they were represented by counsel, and whether Capital One contacted plaintiffs at their place of employment). State law claims are already in the MDL, however, and in ordering centralization, we expressly recognized that the subject actions involved a number of individualized issues. *See In re: Capital One Tel. Consumer Prot. Act Litig.*, — F. Supp. 2d —, 2012 WL 6554687, at \*1 (J.P.M.L. Dec. 10, 2012). We found, however, that the existence of such issues did not “negate the common ones.” *Id.* The same is true for *Beeson*.

Plaintiffs also argue that they will be inconvenienced by transfer. We are not persuaded by this argument either. In deciding issues of transfer under Section 1407, we look to the overall convenience of the parties and witnesses, not just those of the parties to one action in isolation. *See, e.g., In re ClassicStar Mare Lease Litig.*, 528 F. Supp. 2d 1345, 1347 (J.P.M.L. 2007). Moreover, because Section 1407 transfer is for pretrial proceedings only, there is usually no need for the parties and witnesses to travel to the transferee district for depositions or otherwise. *See, e.g., Fed.R.Civ.P.* 45(c)(3)(A)(ii).

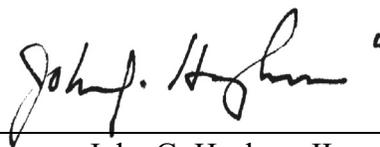
After considering all argument of counsel, we find that *Beeson* involves common questions of fact with actions previously transferred to MDL No. 2416, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for the reasons set out in our original order directing centralization. In that order, we held that the Northern District of Illinois was an appropriate Section 1407 forum for actions sharing factual issues “regarding Capital One’s policies and procedures for calling, or directing its agents to call, consumers, as well as Capital One’s policies and procedures for obtaining and recording a consumer’s consent to receive collection calls.” *See In re: Capital One Tel. Consumer Prot. Act Litig.*, 2012 WL 6554687, at \*1. The record demonstrates that *Beeson* shares

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factual issues with actions already in the MDL. *See Beeson* Compl. ¶ 55 (“Defendants’ harassing communications . . . are part of an overall unlawful business pattern and practice whereby Defendants knowingly, willfully, and intentionally enterprised [*sic*] a profitable unlawful collection scheme to derive profits through the incomplete and inaccurate information and through harassing communications and intentional misinterpretation of TILA laws.”).

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Northern District of Illinois and, with the consent of that court, assigned to the Honorable James F. Holderman for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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