

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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

MDL No. 2478

ORDER DENYING REMAND

Before the Panel: Plaintiff in the action listed in Schedule A (*Tauro*), which was previously transferred from the Western District of Pennsylvania to the District of Connecticut for inclusion in MDL No. 2478, moves under Panel Rule 10.3 for an order remanding *Tauro* to its transferor court. Defendant Convergent Outsourcing, Inc. (Convergent) opposes the motion.

After considering all argument of counsel and plaintiff, we conclude that remand is not appropriate at this time, and therefore we will deny plaintiff's motion. In considering the question of Section 1407 remand, we have consistently afforded great weight to the transferee judge's determination that remand of a particular action at a particular time is appropriate, given that the transferee judge has supervised the day-to-day pretrial proceedings in the MDL. *See In re Columbia/HCA Healthcare Corp. Qui Tam Litig. (No. II)*, 560 F. Supp. 2d 1349, 1350 (J.P.M.L. 2008) (quoting *In re Holiday Magic Sec. & Antitrust Litig.*, 433 F. Supp. 1125, 1126 (J.P.M.L. 1977)). The transferee judge's suggestion of remand to the Panel, *see* Rule 10.1(b), indicates that the judge perceives his or her role under Section 1407 to have ended. Here, no suggestion of remand has been issued by the transferee judge, the Honorable Alvin W. Thompson. To the contrary, Judge Thompson denied plaintiff's motion, filed in the transferee court, to dismiss or remand the *Tauro* action. *See* Order re: Plaintiff's Motion to Dismiss for Improper Venue at 1-2, *Tauro v. Convergent Outsourcing, Inc.*, C.A. No. 3:14-01528 (D. Conn. Nov. 14, 2014), ECF No. 26.

Plaintiff has failed to offer any persuasive reason why we should depart from our long-standing practice of deferring to the discretion of the transferee judge and order remand in the absence of a suggestion of remand. Many of plaintiff's arguments are simply a repeat of his arguments against centralization of Telephone Consumer Protection Act (TCPA) litigation and transfer of *Tauro* in particular, which we previously rejected. *See In re Convergent Tel. Consumer Prot. Act Litig.*, 981 F. Supp. 2d 1385 (J.P.M.L. 2013) (centralizing actions alleging that Convergent violated the TCPA, 47 U.S.C. § 227, when it, or its agents, contacted plaintiffs on their cellular telephones, without prior consent, using an automatic telephone dialing system or an artificial or prerecorded voice); Transfer Order (*Tauro*), MDL No. 2478 (J.P.M.L. Oct. 9, 2014), ECF No. 106. Plaintiff argues that resolution of his action has been delayed by transfer, but the progress of the MDL indicates otherwise. Discovery is currently underway in both *Tauro* and MDL No. 2478 generally, with deadlines set with respect to discovery and pretrial motions in both individual and

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class actions.¹ Judge Thompson, in his capacity as transferee judge, has become familiar with the issues in this litigation and is in the best position to determine the future course of the actions in this MDL. Remand at this time would be premature.

IT IS THEREFORE ORDERED that the motion for Section 1407 remand of *Tauro* is denied.

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

¹ To the extent plaintiff has grievances with respect to Convergent's responses to his discovery requests, such issues more properly should be raised with the transferee court, rather than in a motion for Section 1407 remand.

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

MDL No. 2478

SCHEDULE A

Western District of Pennsylvania

TAURO v. CONVERGENT OUTSOURCING, INC., C.A. No. 2:14-00761
(D. Connecticut C.A. No. 3:14-01528)