

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: NEW CINGULAR WIRELESS, PCS, LLC
DATA SERVICES SALES TAX REFUND
LITIGATION**

MDL No. 2485

TRANSFER ORDER

Before the Panel:* Common plaintiff New Cingular Wireless PCS LLC (Cingular) has moved, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of this litigation in the Western District of Washington. Defendants in three Western District of Washington actions do not oppose the motion. The remaining defendants agree that centralization in the Western District of Washington is appropriate for purposes of determining liability, but they oppose centralization for purposes of determining damages.

This litigation currently consists of seventeen actions listed on Schedule A and pending in two districts, eleven actions in the Western District of Washington and six actions in the Eastern District of Washington.

On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact, and that centralization under Section 1407 in the Western District of Washington will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share factual questions relating to allegations that Cingular is owed refunds from the defendant cities for the overpayment of taxes on internet access data services that Cingular claims was the result of a coding error. Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel, and the judiciary.

Several defendants request centralization for purposes of determining liability only, and not for purposes of determining damages. The extent to which pretrial proceedings are coordinated or consolidated in the transferee court, however, is best addressed by the transferee judge. *See In re: Mut. Funds Inv. Litig.*, 310 F. Supp. 2d 1359, 1361 (J.P.M.L. 2004). *See also In re: Sundstrand Data Control, Inc. Patent Litig.*, 443 F. Supp. 1019, 1021 (J.P.M.L. 1978) (“[T]he Panel has neither the power nor the inclination to dictate in any way the manner in which the coordinated or consolidated pretrial proceedings are to be conducted by the transferee judge.”).

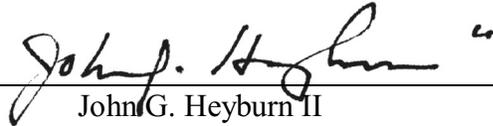
* Judge Marjorie O. Rendell did not participate in the disposition of this matter.

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The Western District of Washington is the most appropriate transferee forum. All parties support centralization in that district and the majority of the actions are pending there, all before Judge John C. Coughenour.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A are transferred to the Western District of Washington and, with the consent of that court, assigned to the Honorable John C. Coughenour for coordinated or consolidated pretrial proceedings in that district.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written above a horizontal line.

John G. Heyburn II
Chairman

Paul J. Barbadoro
Lewis A. Kaplan
Ellen Segal Huvelle

Charles R. Breyer
Sarah S. Vance

**IN RE: NEW CINGULAR WIRELESS, PCS, LLC
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SCHEDULE A

Eastern District of Washington

New Cingular Wireless PCS LLC v. City of Pullman, Washington, C.A. No. 2:13-00267
New Cingular Wireless PCS LLC v. City of Spokane, Washington, C.A. No. 2:13-00275
New Cingular Wireless PCS LLC v. City of Spokane Valley, Washington,
C.A. No. 2:13-00307
New Cingular Wireless PCS LLC v. City of Kennewick, Washington,
C.A. No. 2:13-05079
New Cingular Wireless PCS LLC v. City of West Richland, Washington,
C.A. No. 2:13-05082
New Cingular Wireless PCS LLC v. City of Richland, Washington, C.A. No. 2:13-05085

Western District of Washington

New Cingular Wireless PCS LLC v. City of Renton, Washington, C.A. No. 2:13-01283
New Cingular Wireless PCS LLC v. City of Tukwila, Washington, C.A. No. 2:13-01287
New Cingular Wireless PCS LLC v. City of Kent, Washington, C.A. No. 2:13-01290
New Cingular Wireless PCS LLC v. City of Auburn, Washington, C.A. No. 2:13-01309
New Cingular Wireless PCS LLC v. The City of Federal Way, Washington,
C.A. No. 2:13-01398
New Cingular Wireless PCS LLC v. City of Mountlake Terrace, Washington,
C.A. No. 2:13-01423
New Cingular Wireless PCS LLC v. City of Kirkland, Washington, C.A. No. 2:13-01436
New Cingular Wireless PCS LLC v. The City of Edmonds, Washington,
C.A. No. 2:13-01464
New Cingular Wireless PCS LLC v. City of Clyde Hill, Washington,
C.A. No. 2:13-01534
New Cingular Wireless PCS LLC v. City of Longview, Washington,
C.A. No. 3:13-05611
New Cingular Wireless PCS LLC v. City of University Place, Washington,
C.A. No. 3:13-05694