

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

**IN RE: MONITRONICS INTERNATIONAL, INC.,  
TELEPHONE CONSUMER PROTECTION ACT (TCPA)  
LITIGATION**

MDL No. 2493

**TRANSFER ORDER**

**Before the Panel:** Plaintiff moves under Panel Rule 7.1 to vacate the Panel’s order conditionally transferring the action listed on the attached Schedule A (*Vaughan*) to MDL No. 2493. Defendants Versatile Marketing Solutions, Inc., and Jasit Gotra did not file a response to the motion, but submitted arguments in support of transfer in the notice of potential tag-along action concerning *Vaughan*.<sup>1</sup> The actions in MDL No. 2493 involve allegations that Monitronics International, Inc. (Monitronics), a home security system and alarm monitoring company, violated the TCPA when Monitronics or its alleged agents placed telemarketing calls to persons on the national Do Not Call Registry or to residential or wireless telephones without the individual’s consent. *See In re: Monitronics Int’l, Inc., Tel. Consumer Prot. Act (TCPA) Litig.*, 988 F. Supp. 2d 1364, 1366 (J.P.M.L. 2013). The *Vaughan* action alleges that automated calls promoting a home security system were placed to plaintiff’s wireless phone without his consent, but asserts that VMS and Gotra, doing business as Alliance Security, Alliance Home Protection and other names, are the responsible parties, without reference to Monitronics.

In support of his motion, movant primarily argues that *Vaughan* does not share common factual questions with the actions in MDL No. 2493 because (1) he does not make any allegations against Monitronics, the defendant in the MDL case caption which provides the common factual nexus for those actions; and (2) he seeks individual relief, in contrast to the putative class actions in the MDL. We recently considered these arguments with respect to a substantially similar action that was brought solely against Alliance Security, Inc. (VMS’s current incorporated name), and determined that such actions present common factual issues that warrant transfer to MDL No. 2493, notwithstanding the absence of allegations against Monitronics. *See Transfer Order (Cunningham)* at 2 (J.P.M.L. Oct. 9, 2014). We observed that the master complaint in the MDL sets forth “particularized allegations that Alliance is subject to Monitronics’ control pursuant to the terms of certain contracts,” and thus, found it “highly likely” that discovery in an individual action against Alliance will overlap with discovery in MDL No. 2493. *See id.* We further noted that “[t]his overlap also is reflected in the transferee court’s order granting Alliance’s motion to consolidate the similarly-situated *Beavers* action [against VMS] with the actions in MDL No. 2493.” *Id.* The same considerations apply to *Vaughan*.

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<sup>1</sup> *See* Notice of Potential Tag-Along Action at 1-4 (J.P.M.L. Nov. 25, 2014).

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That *Vaughan* is an individual action does not make it unique, as several actions in the MDL are individual actions making similar factual allegations involving VMS and Alliance. Moreover, the Panel routinely centralizes individual actions with putative class actions. *See, e.g., In re: Convergent Tel. Consumer Prot. Act Litig.*, 981 F. Supp. 2d 1385, 1386 (J.P.M.L. 2013).

Movant also objects to transfer based on (1) the allegedly advanced stage of discovery in the MDL; (2) the inconvenience of a distant forum; and (3) an alleged First Amendment right to be free from an unwanted association with the MDL's lead and liaison counsel. These arguments are unconvincing. Discovery in the MDL is ongoing, and is not scheduled to close until August 2015; thus, transfer will facilitate coordinated discovery in all related actions, including *Vaughan*. Furthermore, while we are sympathetic to plaintiff's concerns about inconvenience, they are insufficient to justify denial of transfer. While transfer of a particular action might inconvenience some parties to that action, transfer is often necessary to further the expeditious resolution of the litigation taken as a whole. *See, e.g., In re: Crown Life Ins. Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001). Nor do plaintiff's First Amendment objections pose an obstacle to transfer. Plaintiff's objections to lead and liaison counsel, in essence, concern the manner in which pretrial proceedings are being conducted and, thus, are properly directed to the transferee judge. *See Transfer Order (Bank)* at 1 (J.P.M.L. Dec. 12, 2014) (rejecting similar First Amendment objections to transfer).

After considering the argument of counsel, we conclude that this action shares questions of fact with the actions previously transferred to MDL No. 2493 and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Although Monitronics is not named in the complaint, the record before us indicates that the *Vaughan* action involves factual questions concerning "Monitronics' policies and procedures for calling consumers, directly or through agents, for the purpose of selling home security products or services, as well as its procedures for obtaining and recording a consumer's consent to receive such calls." *See In re: Monitronics Int'l, Inc., Tel. Consumer Prot. Act (TCPA) Litig.*, 988 F. Supp. 2d at 1366. Thus, the action will benefit from common discovery and pretrial proceedings.

IT IS THEREFORE ORDERED that this action is transferred to the Northern District of West Virginia and, with the consent of that court, assigned to the Honorable Irene M. Keeley for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

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PANEL ON MULTIDISTRICT LITIGATION

*Sarah Vance*

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Sarah S. Vance  
Chair

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Charles R. Breyer  
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**IN RE: MONITRONICS INTERNATIONAL, INC.,  
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**SCHEDULE A**

Central District of California

VAUGHAN v. VERSATILE MARKETING SOLUTIONS, INC., ET AL.,  
C.A. No. 2:14-08880