

**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 (*Abramson*) to MDL No. 2493. Defendant Alliance Security, Inc. (Alliance) opposes the motion and supports transfer. 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 *Abramson* action alleges that automated calls promoting a home security system were placed to plaintiff’s wireless phone without his consent, but asserts that Alliance is the responsible party, without reference to Monitronics.

In support of his motion, movant primarily argues that *Abramson* does not share common factual questions with the actions in MDL No. 2493 because he does not make any allegations against Monitronics, the defendant in the MDL case caption which provides the common factual nexus for those actions. We recently considered and rejected this argument in ordering transfer of two substantially similar actions brought solely against Alliance, based on the determination that such actions present common factual issues with the actions in MDL No. 2493, notwithstanding the absence of specific allegations against Monitronics. *See* Transfer Order (*Cunningham*) at 2 (J.P.M.L. Oct. 9, 2014); Transfer Order (*Vaughan*), at 1 (J.P.M.L. Apr. 1, 2015). 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 action solely against Alliance will overlap with discovery in MDL No. 2493. *See* Transfer Order (*Cunningham*) at 2. 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 with the actions in MDL No. 2493.” *Id.* The same considerations apply to *Abramson*.

Plaintiff’s attempt to distinguish his action factually on other grounds also is unpersuasive. He asserts a past relationship with Alliance, which allegedly includes a prior TCPA lawsuit that was settled in 2013, and his placement on Alliance’s do-not-call list. But that past relationship does not make his action meaningfully different from the actions in the MDL, because the only pending

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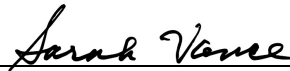
claims in *Abramson* are TCPA claims based on the same Alliance telemarketing practices as the actions in the MDL.

Plaintiffs' remaining objection to transfer based on hardship also is unpersuasive. Plaintiff's distance from the transferee district is not a basis for excluding the action, as the Panel looks to "the overall convenience of the parties and witnesses, not just those of the parties to a single action." *See, e.g., In re: Watson Fentanyl Patch Prods. Liab. Litig.*, 883 F. Supp. 2d 1350, 1352 (J.P.M.L. 2012). Plaintiff also objects to transfer based on the financial burden of retaining additional counsel in the transferee district. But there is nothing in the record to indicate he will need to take such action. In fact, the orders addressing lead and liaison counsel in the MDL provide that they are obligated to "coordinate with other [plaintiff's] counsel."¹

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 *Abramson* 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.

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 *See* Initial Scheduling Order at 2-3 (N.D. W. Va. Feb. 11, 2014); Pre-Trial Order #4, at 5 (N.D. W. Va. July 29, 2014).

**IN RE: MONITRONICS INTERNATIONAL, INC.,
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SCHEDULE A

Western District of Pennsylvania

ABRAMSON v. ALLIANCE SECURITY, INC., C.A. No. 2:15-00185