

**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 (*Worsham III*) to MDL No. 2493. Plaintiff also moves for sanctions against defendant Monitronics International, Inc. (Monitronics) for allegedly making misrepresentations in its notice of potential tag-along action concerning *Worsham III*. Defendant opposes the motions and supports transfer.

This is plaintiff’s third action against Monitronics alleging that Monitronics, Alliance Security, Inc. (Alliance), or agents acting on their behalf, have placed one or more unauthorized telemarketing calls to plaintiff using an automatic telephone dialing system or artificial or prerecorded voice and acting in disregard of his listing on the national Do Not Call Registry. We transferred his first action (*Worsham I*) to MDL No. 2493 on December 8, 2015, and his second action on June 2, 2016. *See* Transfer Order (*Worsham I*) at 1-2 (J.P.M.L. Dec. 8, 2015); Transfer Order (*Worsham II*) at 1-2 (J.P.M.L. June 2, 2016).

Plaintiff’s arguments against transfer are largely the same as those we rejected in ordering transfer of *Worsham I* and *Worsham II* to MDL No. 2493.<sup>1</sup> In particular, we previously determined that plaintiff’s assertion of allegedly unique state law claims did not preclude transfer, explaining that “the presence of additional facts or differing legal theories’ does not prevent the transfer of an action that shares significant factual issues with those in the MDL.” *See* Transfer Order (*Worsham I*) at 2 (citation omitted); Transfer Order (*Worsham II*) at 2 (same). We also rejected the argument that transfer was inappropriate because subject matter jurisdiction allegedly was absent in *Worsham II*, and plaintiff had a pending motion for remand to state court. *See* Transfer Order (*Worsham II*), at 1 (“[J]urisdictional issues do not present an impediment to transfer, as the parties can present such

---

<sup>1</sup> *See* Transfer Order (*Worsham I*) at 1-2 (J.P.M.L. Dec. 8, 2015) (rejecting plaintiff’s arguments concerning lack of due process, alleged factual and legal differences, procedural disparity, and inconvenience, and finding that *Worsham I* “shares questions of the fact with the actions previously transferred to MDL No. 2493”); Transfer Order (*Worsham II*), MDL No. 2493 (J.P.M.L. June 2, 2016) (rejecting jurisdictional objections and arguments alleging unique state law claims, inconvenience, and delay).

-2-

arguments to the transferee judge.”)<sup>2</sup> Plaintiff has provided no grounds for reconsidering the Panel’s determination on these or other previously-decided issues.

Plaintiff raises only two new arguments in opposition to transfer, neither of which is persuasive. First, he argues that Monitronics falsely stated in its notice of potential tag-along action that plaintiff’s three cases are “virtually identical” and that his cases are “nearly identical” to actions filed by other plaintiffs in the MDL. In his view, Monitronics’ statements are plainly false because the dates of the alleged calls differ, and Monitronics should be sanctioned. But Monitronics’ notice disclosed the differing call dates and accurately represented that the core allegations concerning Monitronics’ and Alliance’s telemarketing practices (*e.g.*, use of “prerecorded voice solicitation messages” and “automatic dialing”) were virtually identical. Thus, plaintiff’s allegation that defendant made false statements is without merit, and his request for sanctions will be denied.<sup>3</sup>

Additionally, plaintiff argues that the reassignment of the MDL to Judge John Preston Bailey in June 2016 is a new development that warrants vacating the CTO, arguing that efficiencies have been lost through the reassignment process. The transferee court record does not support plaintiff’s contention. Judge Bailey has managed the proceedings in MDL No. 2493 actively, including ordering briefing on the impact of a recent Supreme Court decision and entering an order governing further proceedings. Plaintiff’s contention that the reassignment increases the inconvenience to him individually also is unpersuasive. As the Panel observed in transferring *Worsham I*, “[w]hile transfer of a particular action might inconvenience some parties to that action, transfer often is necessary to further the expeditious resolution of the litigation taken as a whole.” *See, e.g.*, Transfer Order (*Worsham I*) at 2.

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. Like many of the already-centralized actions, *Worsham III* 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., TCPA Litig.*, 988 F. Supp. 2d at 1366. Thus, the action will benefit from common discovery and pretrial proceedings.

---

<sup>2</sup> Thus, we also deny plaintiff’s request that we defer a decision on transfer until the District of Maryland rules on his motion for remand. As we observed in *Worsham II*, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

<sup>3</sup> Monitronics’ request for an award of fees and costs incurred in responding to the motion also will be denied.

-3-

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Northern District of West Virginia and, with the consent of that court, assigned to the Honorable John Preston Bailey for inclusion in the coordinated or consolidated pretrial proceedings.

IT IS FURTHER ORDERED that plaintiff's motion for sanctions and defendant's request for an award of fees and costs are denied.

PANEL ON MULTIDISTRICT LITIGATION



---

Sarah S. Vance  
Chair

Marjorie O. Rendell  
Lewis A. Kaplan  
R. David Proctor

Charles A. Breyer  
Ellen Segal Huvelle  
Catherine D. Perry

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

MDL No. 2493

**SCHEDULE A**

District of Maryland

WORSHAM v. ALLIANCE SECURITY, INC., ET AL., C.A. No. 1:16-01285