

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*) to MDL No. 2493. Defendants Monitronics International, Inc. (Monitronics) and Alliance Security, Inc. (Alliance) oppose the motion and support transfer.

In support of his motion, plaintiff mounts a number of due process objections, including an alleged disregard of his right to control the venue of his lawsuit, lack of adequate time to oppose transfer, and lack of access to paper copies of over 250 documents in MDL No. 2493. Under the process established by Panel Rule 7.1, however, plaintiff was provided an opportunity to object to the conditional transfer order (CTO) and submit his motion to vacate CTO, which he has done. Additionally, in response to plaintiff's motion for extension of time, the Panel granted him all of the time he requested to file his motion to vacate. Moreover, the documents in MDL No. 2493 are accessible to the public through the federal judiciary's website known as PACER.¹ Thus, there is no basis in the record for finding a due process violation.²

Plaintiff also argues that his action is factually distinct from the actions in MDL No. 2493 because the telemarketing calls at issue occurred during a different time period (late 2014 through 2015) and present state law claims involving significantly different legal issues. The Panel finds these alleged differences unpersuasive. First, as defendants point out, the actions in MDL No. 2493 encompass telemarketing calls made by or on behalf of Monitronics through at least mid-2015.³

* Judge Marjorie O. Rendell and Judge Lewis A. Kaplan took no part in the decision of this matter.

¹ Public Access to Court Electronic Records, available at: <https://www.pacer.gov/>

² See, e.g., *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.”).

³ Defendant Monitronics notes that the *Mey* action on the initial transfer order now alleges telemarketing calls on behalf of Monitronics through April 2015, which are the subject of discovery.
(continued...)

-2-

Indeed, the lead plaintiffs have filed a master complaint on behalf of a putative class that received calls from May 18, 2007 to the present. We also find the involvement of allegedly unique state law claims unpersuasive. The Panel often has held 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, e.g., In re: Auto Body Shop Antitrust Litig.*, 37 F. Supp.3d 1388, 1390 (J.P.M.L. 2014). Thus, the Panel routinely transfers tag-along actions with allegedly unique state law claims.⁴

Plaintiff further argues that discovery in the MDL is at an advanced stage and inclusion in an MDL will cause him inconvenience and hardship. These arguments are unconvincing. Discovery in the MDL remains open; thus, transfer will facilitate coordinated discovery in all related actions, including *Worsham*.⁵ 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 often is 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).

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* 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.

³(...continued)

Additionally, the Panel has transferred four tag-along actions over the past year which allege similar telemarketing calls placed in 2015. *See, e.g., Newhart v. Monitronics*, C.A. No. 15-0161 (N.D. W.Va. transferred Sept. 2, 2015) (alleging telemarketing calls through at least June 22, 2015).

⁴ *See, e.g., In re: New England Compounding Pharmacy, Inc., Prods. Liab. Litig.*, MDL No. 2419, Transfer Order (*Hancock, et al.*), at 1 (J.P.M.L. Dec. 12, 2014) (“notwithstanding the allegedly unique state law at issue, the actions are likely to benefit from common discovery”).

⁵ We also note that the transferee court recently stayed the MDL proceedings pending the resolution of two Supreme Court cases, subject to certain exceptions for discovery and settlement proceedings. Transfer will facilitate management of *Worsham* in a manner consistent with the stay order.

-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 Irene M. Keeley for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance

Chair

Charles R. Breyer
R. David Proctor

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. MONITRONICS INTERNATIONAL, INC., ET AL.,
C.A. No. 1:15-02139