

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: TARGET CORPORATION CUSTOMER
DATA SECURITY BREACH LITIGATION

MDL No. 2522

TRANSFER ORDER WITH SIMULTANEOUS
SEPARATION AND REMAND

Before the Panel:* Pursuant to Panel Rule 7.1, defendants MasterCard Inc. (MasterCard) and Visa Inc. (Visa) in this District of Utah action (*Christensen*), listed on Schedule A, move to partially vacate our order conditionally transferring the action to MDL No. 2522. Visa and MasterCard request the Panel separate and remand the claims against them to the District of Utah or, alternatively, to vacate conditional transfer of the action in its entirety. Common defendant Target Corp. (Target) takes no position as to whether the Panel should separate and remand claims against Visa and MasterCard, but opposes the alternative request. Plaintiffs favor transferring all claims in *Christensen* to MDL No. 2522 or, alternatively, vacating the conditional transfer order in its entirety and allowing the action to proceed in the District of Utah.

After considering all argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2522, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. No party disputes that plaintiffs' claims against Target share questions of fact with MDL No. 2522. Like many of the already-centralized actions, *Christensen* involves factual questions arising from a data security breach at stores owned and operated by Target between November 27, 2013, and December 15, 2013. *See In re: Target Corp. Customer Data Sec. Breach Litig.*, __ F. Supp. 2d __, 2014 WL 1338473 (J.P.M.L. Apr. 2, 2014).

We are persuaded that the claims in this action against Visa and MasterCard—which arise out of Visa's and MasterCard's alleged failure to implement chip and personal identification number ("PIN") technology in the U.S.—are not appropriate for inclusion in Section 1407 proceedings in this docket. While there might be some negligible overlap in discovery, the claims against Visa and MasterCard do not share sufficient questions of fact with previously centralized MDL No. 2522 actions to warrant their transfer to the MDL. The claims against Target will relate solely to the data security breach that occurred in 2013. In contrast, the claims against Visa and MasterCard will focus on their development of chip and PIN technology, why they have declined to implement that technology in the U.S., and whether the technology would have prevented harm to plaintiffs and class members—not just from the Target data breach, but from any number of data breaches in the last two

* Judge Lewis A. Kaplan and Judge Ellen Segal Huvelle took no part in the decision of this matter.

-2-

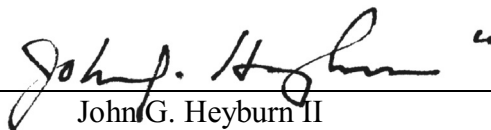
decades. Accordingly, plaintiffs claims against Visa and MasterCard should be separated and simultaneously remanded to the District of Utah.

We decline plaintiffs' alternative request to vacate the conditional transfer order in its entirety and allow *Christensen* to proceed in the District of Utah. This would result in duplicative discovery and potential inconsistent rulings as to the claims against Target. The Panel consistently has held that, while it might inconvenience some parties, transfer of a particular action 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).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the District of Minnesota and, with the consent of that court, assigned to the Honorable Paul A. Magnuson for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

IT IS FURTHER ORDERED that claims against Visa and MasterCard are separated and remanded, pursuant to 28 U.S.C. § 1407(a), to the District of Utah.

PANEL ON MULTIDISTRICT LITIGATION



John G. Heyburn II
Chairman

Marjorie O. Rendell
Sarah S. Vance

Charles R. Breyer
R. David Proctor

**IN RE: TARGET CORPORATION CUSTOMER
DATA SECURITY BREACH LITIGATION**

MDL No. 2522

SCHEDULE A

District of Utah

CHRISTENSEN, ET AL., v. TARGET, C.A. No. 2:13-01136