

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: EQUIFAX, INC., CUSTOMER DATA
SECURITY BREACH LITIGATION**

MDL No. 2800

**TRANSFER ORDER WITH SIMULTANEOUS
SEPARATION AND REMAND**

Before the Panel:* Plaintiffs in the action listed on Schedule A (*Cofield*), proceeding *pro se*, move under Panel Rule 7.1 to vacate our order conditionally transferring the action to MDL No. 2800 or, alternatively, request transfer of all claims to MDL No. 2800. Defendants Experian Information Solutions, Inc.; Transunion Corp.; and Transunion Consumer Solutions have moved to vacate the order in part, and they request that the claims against them be separated and remanded to D. Maryland. Defendants Equifax Inc. and Equifax Information Services, LLC oppose plaintiffs' motion to vacate but do not oppose the motions by Experian and Trans Union.

After considering the argument of counsel and plaintiffs, we find that plaintiffs' claims against Equifax involve common questions of fact with actions transferred to MDL No. 2800, and that transfer of these claims will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation.¹ The actions in MDL No. 2800 involve factual questions arising from a cybersecurity incident involving Equifax in which the personally identifiable information of more than 145 million consumers was compromised. *See In re: Equifax, Inc., Customer Data Sec. Breach Litig.*, __ F. Supp. 3d __, 2017 WL 6031680 (J.P.M.L. Dec. 6, 2017). In *Cofield*, plaintiffs allege both (1) claims that arise out of the Equifax data breach and (2) a claim that arises out of allegations that the credit bureaus prepared and failed to correct inaccurate credit reports.

Plaintiffs do not dispute that their claims arising out of the Equifax data breach share questions of fact with the claims in MDL No. 2800, but they argue that their complaint also presents allegations that are unrelated to the data breach. They also argue that transfer will result in delay and prejudice, but they request that the Panel not separate their claims, which would require them to litigate in two separate jurisdictions.

* Judge Lewis A. Kaplan took no part in the disposition of this matter.

¹ While the initial transfer order in MDL No. 2800 included only putative nationwide and/or statewide consumer class actions, actions brought by individual consumers and actions brought by financial institutions since have been included in centralized proceedings through Section 1407 transfer or direct filing in the transferee court.

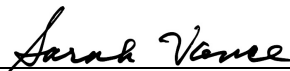
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We are persuaded that separation and remand of the claim that does not arise out of the Equifax data breach is warranted here, as it does not share questions of fact with the claims in MDL No. 2800. Based on our review of the complaint, this claim is sufficiently distinct that transfer would not serve Section 1407's purposes. We are sympathetic to plaintiffs' concerns about delay, but we are not persuaded that they justify complete exclusion of this action from centralized proceedings or transfer of an unrelated claim to MDL No. 2800. The Panel has held repeatedly 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: IntraMTA Switched Access Charges Litig.*, 67 F. Supp. 3d 1378, 1380 (J.P.M.L. 2014).

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Northern District of Georgia and, with the consent of that court, assigned to the Honorable Thomas W. Thrash for inclusion in the coordinated or consolidated pretrial proceedings.

IT IS FURTHER ORDERED that the Sixth cause of action in *Cofield* is simultaneously separated and remanded to the District of Maryland.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance

Chair

Marjorie O. Rendell
Ellen Segal Huvelle
Catherine D. Perry

Charles R. Breyer
R. David Proctor

**IN RE: EQUIFAX, INC., CUSTOMER DATA
SECURITY BREACH LITIGATION**

MDL No. 2800

SCHEDULE A

District of Maryland

COFIELD, SR., ET AL. v. EQUIFAX, INC., ET AL., C.A. No. 1:17-03119