

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: CAPITAL ONE 360 SAVINGS  
ACCOUNT INTEREST RATE LITIGATION**

MDL No. 3111

**TRANSFER ORDER**

**Before the Panel:** Plaintiff in the Southern District of New York action listed on Schedule A (*State of New York*) moves under Panel Rule 7.1 to vacate the order that conditionally transferred the action to MDL No. 3111. Defendants Capital One, N.A., and Capital One Financial Corporation (together, Capital One) oppose the motion.

After considering the argument of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 3111, 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 the litigation. In our order centralizing this litigation, we held that the Eastern District of Virginia was an appropriate Section 1407 forum for actions sharing factual questions arising from allegations that Capital One deliberately misled its 360 Savings Account customers into believing that they were earning a higher interest rate than they were, in large part by offering the similarly-named 360 Performance Savings account, which paid a higher interest rate than the 360 Savings account. *In re Cap. One 360 Savings Acct. Int. Fee Litig.*, 737 F. Supp. 3d 1359 (J.P.M.L. 2024).<sup>1</sup> The *State of New York* action involves the same allegations and thus falls squarely within the scope of the MDL.

Plaintiff does not dispute that its action shares questions of fact with the MDL, but it maintains that transfer is inappropriate for several reasons. First, it contends that its action involves distinct legal issues. It also asserts that the disparate procedural postures of the cases make transfer inappropriate. It notes that a consumer class settlement has been reached in the MDL and is set for a final approval hearing in November 2025. That settlement, according to plaintiff, will essentially resolve the MDL but will not extinguish its claims, at least in part because the State seeks relief beyond that contemplated by the settlement. Finally, plaintiff argues that any necessary coordination can be efficiently accomplished informally.

We are not persuaded by the State of New York's arguments. It is not yet clear whether the proposed class settlement will conclude all litigation in the consumer cases, both because the

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<sup>1</sup> After centralization, the caption of the MDL was changed to *In re Capital One 360 Savings Account Interest Rate Litigation*.

settlement may not become final<sup>2</sup> and because, even if it does, some class members may opt out and file individual actions. More importantly, if the settlement is approved and becomes final, there will be a dispute among the parties over the extent to which the settlement affects plaintiff's claims. Plaintiff argues that it is not a party to the proposed settlement and that its action would not be resolved by the settlement. Capital One does not agree. We consistently have held that actions raising disputes over the scope and interpretation of a settlement agreement reached in an MDL are appropriately transferred to the MDL court. *See, e.g., In re Prudential Ins. Co. of Am. Sales Pracs. Litig.*, 170 F. Supp. 2d 1346, 1347 (J.P.M.L. 2001) (denying motion to vacate CTO; "We note also that there is disagreement between the parties concerning whether and to what extent the plaintiff's assertion of claims . . . is precluded by the MDL . . . class settlement. Such a matter is particularly appropriate for resolution by the transferee court." ).<sup>3</sup>

Transferee courts, too, have expressed a strong interest in presiding over questions arising under settlements reached in their MDLs, to ensure that the settlements are interpreted in a consistent manner and properly enforced. *See, e.g., In re Vioxx Prods. Liab. Litig.*, MDL No. 1657, 2011 WL 5900797, at \*3 (E.D. La. Nov. 23, 2011) (declining to remand an action where "[t]he allegations in the Complaint implicate [the transferee] Court's supervision of the Master Settlement Agreement"). Indeed, the settlement agreement that has been preliminarily approved in the MDL provides that the transferee court "shall retain jurisdiction over the Settlement and the Parties for the purpose of enforcing the terms of this Agreement," as well as "over any determination of whether any subsequent suit is released by the Settlement Agreement." Proposed Settlement Agreement, § 23.20, *In re Cap. One 360 Savings Acct. Int. Rate Litig.*, C.A. No. 24-md-3111 (E.D. Va. June 6, 2025), ECF No. 163-1. Transfer thus is appropriate to allow the transferee court to resolve any questions concerning the effect of the settlement on the State's claims.

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<sup>2</sup> The settlement provides that Capital One can reject the agreement unless a certain threshold of participation is reached.

<sup>3</sup> *See also* Transfer Order at 2, MDL No. 2948, *In re TikTok, Inc., Consumer Priv. Litig.* (J.P.M.L. Apr. 7, 2023), ECF No. 157 (denying motions to vacate conditional transfer orders; "[D]etermining whether the [proposed tag-along] actions fall within the scope of the MDL settlement is a task properly left to the transferee court."); Transfer Order at 2, MDL No. 2323, *In re Nat'l Football League Players' Concussion Injury Litig.* (J.P.M.L. Feb. 1, 2018), ECF No. 704 ("Defendants dispute whether plaintiff is a settlement class member, and the issue will require interpretation of the MDL . . . settlement agreement—a task most properly suited to the transferee court, which approved the settlement." ).

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IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Eastern District of Virginia and, with the consent of that court, assigned to the Honorable David J. Novak for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Karen K. Caldwell", is positioned above a horizontal line.

Karen K. Caldwell  
Chair

Nathaniel M. Gorton  
David C. Norton  
Dale A. Kimball

Matthew F. Kennelly  
Roger T. Benitez  
Madeline Cox Arleo

**IN RE: CAPITAL ONE 360 SAVINGS  
ACCOUNT INTEREST RATE LITIGATION**

MDL No. 3111

**SCHEDULE A**

Southern District of New York

THE PEOPLE OF THE STATE OF NEW YORK, BY LETITIA JAMES v. CAPITAL  
ONE, N.A., ET AL., C.A. No. 1:25-04037