

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: CONVERGENT TELEPHONE CONSUMER
PROTECTION ACT (TCPA) LITIGATION

MDL No. 2478

TRANSFER ORDER

Before the Panel:* Defendant Convergent Outsourcing, Inc. (Convergent) moves, pursuant to 28 U.S.C. § 1407(c), for transfer of the action listed on Schedule A (*Meininger*) to the District of Connecticut for inclusion in MDL No. 2478. Plaintiff Stephen Meininger, the Chapter 7 Trustee of Debtors Damir and Elida Mujic, opposes the motion.

The actions encompassing MDL No. 2478 involve allegations that Convergent violated the federal Telephone Consumer Protection Act (TCPA) by placing debt collection calls to plaintiffs' cellular telephones, without the plaintiffs' consent, using an "autodialer" or an artificial or prerecorded voice. *See In re Convergent Tel. Consumer Prot. Act Litig.*, MDL No. 2478, ___ F. Supp. 2d ___, 2013 WL 5596117, at *1 (J.P.M.L. Oct. 8, 2013). Plaintiff in *Meininger* alleges that Convergent violated the TCPA, the Federal Fair Debt Collection Practices Act (FDCPA), and the Florida Consumer Collection Practices Act by placing debt collection calls to debtors' cellular telephone using an automated system, without their consent. Plaintiff argues that his action is not appropriate for inclusion in MDL No. 2478 because, *inter alia*: (1) the TCPA claims in MDL No. 2478 and those in *Meininger* share few common factual issues, while discovery will be primarily plaintiff-specific; (2) *Meininger* involves claims in addition to the TCPA and defendants in addition to Convergent; and (3) transfer would cause plaintiff prejudice and inconvenience.

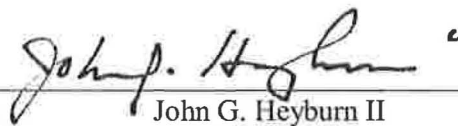
After considering all argument of counsel, we conclude that this action involves common questions of fact with the actions previously transferred to MDL No. 2478, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. *Meininger* presents the same factual and legal issues as do the actions pending in MDL No. 2478—namely, like those actions, plaintiff alleges that Convergent violated the TCPA when it, or its agents, contacted the debtors on their cellular telephone using an automatic dialer without express consent. This action, therefore, will involve similar factual inquiries and discovery. Moreover, the Panel already has transferred to the MDL actions involving alleged violations of the FDCPA, as well as actions involving other defendants. *See Convergent*, 2013 WL 5596117, at *2. Plaintiff's argument based on differing defendants, in particular, has been undercut by recent voluntary dismissals of the alleged creditor and one of the collection agency defendants. In any case, Section 1407 does not require a complete identity or even a majority of common factual and legal issues as a prerequisite to centralization. *See In re Satyam Computer Servs., Ltd., Sec. Litig.*, 712 F. Supp.

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

2d 1381, 1382 (J.P.M.L.2010). Nor are we persuaded that any prejudice or inconvenience to plaintiff arising from transfer of *Meininger* to MDL No. 2478 justifies exclusion of this action from the centralized proceedings.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, the action listed on Schedule A is transferred to the District of Connecticut and, with the consent of that court, assigned to the Honorable Alvin W. Thompson for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



John G. Heyburn II
Chairman

Charles R. Breyer
Ellen Segal Huvelle

Sarah S. Vance

**IN RE: CONVERGENT TELEPHONE CONSUMER
PROTECTION ACT (TCPA) LITIGATION**

MDL No. 2478

SCHEDULE A

Middle District of Florida

MEININGER V. TARGET NATIONAL BANK, ET AL., C.A. No. 8:12-00871