

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

UNITED STATES OF AMERICA } ss
DISTRICT OF MONTANA
I, Tyler P. Gilman, Clerk of the United States District
Court for the District of Montana, hereby certify that
the above and foregoing is a true copy of the original
now on file in my office.
Dated this 7th day of February 20 25
TYLER P. GILMAN, Clerk
By Athena Platt Deputy



IN RE: SNOWFLAKE, INC., DATA SECURITY BREACH
LITIGATION

MDL No. 3126

TRANSFER ORDER

Before the Panel:* *Pro se* plaintiff in the action listed on Schedule A (*Wang*) moves under Panel Rule 7.1 to vacate the order conditionally transferring the action to MDL No. 3126. Plaintiff also moves for sanctions against defendant AT&T Inc. for allegedly making misrepresentations in the Panel briefing.¹ Defendant AT&T opposes the motions and supports transfer. Defendant Snowflake Inc. also opposes the motion to vacate and supports transfer.

After considering the argument of counsel, we find that the action involves common questions of fact with the actions transferred to MDL No. 3126, 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. The actions in MDL No. 3126 involve common factual questions concerning a cluster of data breaches that occurred on the Snowflake cloud platform from approximately April through June 2024, when a threat actor allegedly exfiltrated the personal information of over 500 million consumers and employees, including AT&T cellular customers. *See In re AT&T Inc. Cellular Customer Data Sec. Breach Litig.*, __ F. Supp. 3d __, 2024 WL 4429233 (J.P.M.L. Oct. 4, 2024). The *Wang* action involves the same factual issues concerning the breach of AT&T data on the Snowflake platform. Plaintiff does not dispute this common factual core.

In opposition to transfer, plaintiff argues that (1) an alleged forum selection agreement with AT&T precludes transfer; (2) his action presents several case-specific issues; (3) transfer would violate due process; (4) transfer would be inconvenient and cause undue prejudice; and (5) transfer would hurt his chances for a favorable settlement. These objections are unpersuasive.

* Judge Matthew F. Kennelly and Judge David C. Norton did not participate in the decision of this matter.

¹ Plaintiff filed his motion for sanctions and reply in support of motion to vacate under seal based on his belief that they included confidential settlement documents or related information that he had a duty to file under seal. Defendant AT&T subsequently submitted redacted versions of those briefs that it represented were appropriate for public filing and asserted that certain supporting exhibits also could be filed on the public record, without objection from plaintiff. Thus, those documents will be placed on the public record concurrently with the filing of this order.

First, a forum selection agreement does not affect the Panel’s authority to transfer an action under Section 1407, assuming *arguendo* the existence of the alleged agreement.² See *In re Park W. Galleries, Inc., Mktg. & Sales Practices Litig.*, 655 F. Supp. 2d 1378, 1379 (J.P.M.L. 2009) (denying motion to vacate conditional transfer order where parties contractually agreed to another forum). “When civil actions satisfy the criteria set forth in 28 U.S.C. § 1407(a), the statute authorizes the Panel to centralize those actions (as well as any subsequently identified tag-along actions) in ‘any district.’” *Id.* (quoting § 1407). “Forum selection clauses [thus] do not limit the Panel’s authority with respect to the selection of [a] transferee district, or, by the same token, our authority to transfer tag-along actions to an existing MDL.” *Id.* (quoting *In re Med. Resources Secs. Litig.*, 1998 U.S. Dist. LEXIS 15832, at *3 (J.P.M.L. Oct. 7, 1998)) (alterations in original).³

Second, the case-specific issues in plaintiff’s action do not weigh against transfer. His alleged injuries – for example, increased risk of identity theft and fraud, lost time and money spent on protective measures, and emotional distress – are largely the same types of injuries alleged in the MDL. Additionally, his litigation history with AT&T and intent to amend his complaint to add claims unrelated to the Snowflake data breach are not obstacles to transfer. Section 1407 does not require a complete identity of common factual issues when, as here, the actions arise from a common factual core. See *In re Valsartan Prods. Liab. Litig.*, 433 F. Supp. 3d 1349, 1352 (J.P.M.L. 2019). Moreover, as with any MDL, the transferee judge may account, at his discretion, for any differences among the actions, including *Wang*, by using appropriate pretrial devices, such as separate tracks for discovery or motion practice. See *id.*⁴

² Plaintiff asserts that an email exchange from September 2024 constitutes a forum selection agreement providing for exclusive venue of plaintiff’s data breach complaint in the Southern District of New York. AT&T asserts that the email exchange is not a forum selection agreement but instead is a discussion about whether plaintiff’s data breach complaint should be filed in federal or state court. The Panel assumes without deciding that the email exchange is a forum selection agreement, as alleged by plaintiff, for purposes of deciding transfer to the MDL.

³ Plaintiff’s reliance on *In re Rolls Royce Corp.*, 775 F.3d 671 (5th Cir. 2014) is inapposite. That decision concerned a dispute about transfer under 28 U.S.C. § 1404, rather than § 1407. See *id.* at 674-76 & n.3.

⁴ Plaintiff also errs in asserting that an individual action should not be centralized in an MDL with putative class actions. The Panel routinely centralizes individual actions and putative class actions in a single MDL where the actions share a common factual core. See *In re U.S. Office of Pers. Mgmt. Data Sec. Breach Litig.*, 138 F. Supp. 3d 1379, 1380 (J.P.M.L. 2015) (“The Panel routinely includes individual and class actions in a single MDL.”). Here, the discovery in all actions, including *Wang*, concerning the Snowflake data breach will overlap, regardless of whether the claims are styled as individual or class claims.

Third, transfer does not violate plaintiff's due process rights. Plaintiff's argument is based on the speculative and conclusory assertion that the transferee court and plaintiffs' leadership in the MDL will ignore the interests of individual plaintiffs in conducting pretrial proceedings. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (internal quotation marks and citation omitted). Transfer does not deny plaintiff the opportunity to meaningfully participate in proceedings in the transferee court, and the Panel has rejected similar arguments in the past.⁵

Fourth, the alleged inconvenience of transfer is no obstacle to transfer. The Panel looks to "the overall convenience of the parties and witnesses in the litigation as a whole, not just those of a single plaintiff or defendant in isolation." *See In re Watson Fentanyl Patch Prods. Liab. Litig.*, 883 F. Supp. 2d 1350, 1351-52 (J.P.M.L. 2012). In any event, because transfer is for pretrial proceedings only, there likely will be no need for plaintiff to travel to the transferee forum.⁶

Fifth, plaintiff's concerns about a delayed or undesirable settlement of his case in the MDL are irrelevant to transfer. As the Panel previously has held, "concerns about litigation delays and the future of settlement discussions are highly speculative," and "these essentially are case management issues" that the parties can manage within the MDL. *See In re Ford Motor Co. DPS6 PowerShift Transmission Prods. Liab. Litig.*, 289 F. Supp. 3d 1350, 1352 (J.P.M.L. 2018).

We will deny plaintiff's motion for sanctions against AT&T. The Panel sees no professional misconduct in this matter warranting sanctions.

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the District of Montana and, with the consent of that court, assigned to the Honorable Brian Morris for coordinated or consolidated pretrial proceedings.

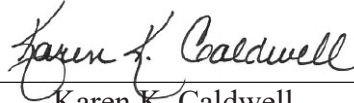
IT IS FURTHER ORDERED that plaintiff's motion for sanctions is denied.

⁵ *See, e.g., In re Benicar (Olmesartan) Prods. Liab. Litig.*, MDL No. 2606, Transfer Order at 2 (J.P.M.L. Mar. 30, 2020) (ECF No. 231) (transferring action over plaintiffs' due process objection, observing that "Section 1407 transfer does not alter, much less diminish, the character of a transferred action, or impinge on a plaintiff's ability to fully and fairly litigate his or her claims."); *In re Equifax, Inc., Customer Data Sec. Breach Litig.*, MDL No. 2800, 2018 WL 3770539 (J.P.M.L. Aug. 8, 2018) (transferring *pro se* action over due process objection premised on potential "interference by . . . leadership counsel," finding that "transfer does not deny plaintiff the opportunity to meaningfully participate in pretrial proceedings before the transferee court").

⁶ We also note that the transferee court has utilized videoconferencing for remote hearings in this litigation.

IT IS FURTHER ORDERED that the Clerk of the Panel is directed to file on the public record plaintiff's redacted reply in support of motion to vacate, redacted motion for sanctions, and exhibits 1, 5, 6, 7, 8, and 9 thereto. Exhibits 2, 3, and 4 shall remain under seal.

PANEL ON MULTIDISTRICT LITIGATION

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

Karen K. Caldwell

Chair

Nathaniel M. Gorton
Dale A. Kimball

Roger T. Benitez
Madeline Cox Arleo

**IN RE: SNOWFLAKE, INC., DATA SECURITY BREACH
LITIGATION**

MDL No. 3126

SCHEDULE A

Southern District of New York

WANG v. AT&T, ET AL., C.A. No. 1:24-07206