

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

IN RE: MOVEIT CUSTOMER DATA  
SECURITY BREACH LITIGATION

MDL No. 3083

TRANSFER ORDER

**Before the Panel:**\* Plaintiffs in four actions pending in the Central and Southern Districts of California and the Southern District of Indiana, defendant American Multi-Cinema, Inc. (AMC), in the District of Kansas *Newman* action, and defendant CLEAResult Consulting Inc. (CLEAResult) in the Western District of Texas *Dauch* action move under Panel Rule 7.1 to vacate the Panel's orders conditionally transferring their respective actions, which are listed on the attached Schedule A, to MDL No. 3083. Principal MDL defendant Progress Software Corporation (Progress) and its subsidiary Ipswitch, Inc., oppose all six motions to vacate. Defendant Maximus Health Services, Inc., in the Southern District of Indiana *Garcia* action supports the motion to vacate in that action. Defendants Data Media Associates LLC (in the Central District of California *Morris* action) and Pension Benefit Information, LLC (in the Southern District of California *Yourglich* and *Carlblom* actions) oppose the motions to vacate. Plaintiff in *Dauch* opposes the motion to vacate as to *Dauch*.

After considering the arguments of counsel, we find that these actions involve common questions of fact with the actions previously transferred to MDL No. 3083, 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 directing centralization, we held that the District of Massachusetts was an appropriate Section 1407 forum for actions sharing factual questions concerning allegations that “a vulnerability in Progress Software Company’s MOVEit Transfer and MOVEit Cloud file transfer services was exploited by a Russian cybergang in May 2023, which to date is estimated to have compromised the personally identifying information (PII) of over 55 million people.” *In re MOVEit Customer Data Sec. Breach Litig.*, MDL No. 3083, \_\_\_ F. Supp. 3d \_\_\_, 2023 WL 6456749 at \*2 (J.P.M.L. Oct. 4, 2023) (citations omitted). “On May 31, 2023, Progress posted a notice on its website stating it had discovered an SQL injection vulnerability in its MOVEit file transfer services and a related breach in its network and systems. Plaintiffs are individuals whose PII was potentially compromised. They bring largely overlapping putative nationwide or statewide class actions on behalf of persons impacted by the exploitation of the MOVEit software vulnerability.” *Id.* The actions before us arise from the MOVEit data breach and thus fall within the MDL’s ambit.

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\* Judge Nathaniel M. Gorton took no part in the decision of this matter.

Plaintiff in the Southern District of Indiana *Garcia* action opposes transfer primarily based on jurisdictional arguments, arguing that her motion to remand likely will be granted. But we consistently have held that the pendency of a remand motion is insufficient to warrant vacating a CTO. See, e.g., *In re Ford Motor Co. DPS6 PowerShift Transmission Prods. Liab. Litig.*, 289 F. Supp. 3d 1350, 1352 (J.P.M.L. 2018) (“It is well-established that jurisdictional objections, including objections to removal, are not relevant to transfer. This is so even where, as here, plaintiffs assert that the removals were patently improper.”). Plaintiff can present her motion to remand to the transferee court.

Plaintiffs in *Morris*, *Yourglich*, and *Carlbloom* oppose centralization based on the purported uniqueness of the state law claims they bring and the alleged inconvenience of transfer. The *Morris* plaintiff also argues her claims do not relate to vulnerabilities in Progress’ products. The *Morris* plaintiff, however, is a member of putative nationwide classes already in the MDL.<sup>1</sup> Plaintiffs in *Yourglich* and *Carlbloom* argue that they filed claims for under \$25,000, but the Panel focuses not on a dollar value of plaintiffs’ claims but instead on common fact questions, which these actions against MDL defendant PBI without doubt share. Moreover, the Panel often has transferred actions involving allegedly unique factual and legal issues to an MDL based on a common factual core with the MDL actions. See *In re Blue Cross Blue Shield Antitrust Litig.*, 908 F. Supp. 2d 1373, 1376 (J.P.M.L. 2012) (“the presence of additional facts or differing legal theories is not significant when the actions still arise from a common factual core”). The parties also mistakenly assume in their convenience-based arguments that they will be required to travel to the transferee district, but the Panel has long held that because “Section 1407 transfer is for pretrial proceedings only, there is usually no need for the parties and witnesses to travel to the transferee district for depositions or otherwise.” *In re Swine Flu Immunization Prods. Liab. Litig.*, 453 F. Supp. 648, 650 (J.P.M.L. 1978).

Defendant AMC opposes transfer of the District of Kansas *Newman* action, arguing that it would be more efficient to have its pending motion to compel arbitration resolved in the transferor court. Similarly, defendant CLEAResult opposes transfer of the Western District of Texas *Dauch* action so the transferor court may rule on its motion to dismiss. Defendants do not dispute that their actions are factually related to the MOVEit data breach. Defendants can present their motions to the transferee judge. Moreover, defendants’ arguments presuppose that their motions will be granted, an assumption we decline to make. See *In re Kauffman Mutual Fund Actions*, 337 F. Supp. 1337, 1339-40 (J.P.M.L. 1972) (“The framers of Section 1407 did not contemplate that the Panel would decide the merits of the actions before it and neither the statute nor the implementing Rules of the Panel are drafted to allow for such determinations.”).

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<sup>1</sup> *Valdivia v. Data Media Assocs., LLC*, C.A. No. 1:23-12976 (D. Mass.); and *Walsh v. Data Media Assocs.*, C.A. No. 1:23-12977 (D. Mass.).

IT IS THEREFORE ORDERED that these actions are transferred to the District of Massachusetts and, with the consent of that court, assigned to the Honorable Allison D. Burroughs 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

Matthew F. Kennelly  
Roger T. Benitez  
Madeline Cox Arleo

David C. Norton  
Dale A. Kimball

**IN RE: MOVEIT CUSTOMER DATA  
SECURITY BREACH LITIGATION**

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**SCHEDULE A**

Central District of California

MORRIS v. DATA MEDIA ASSOCIATES, LLC, ET AL., C.A. No. 8:24-00080

Southern District of California

YOURGLICH v. PENSION BENEFIT INFORMATION, LLC., ET AL.,  
C.A. No. 3:23-02034  
CARLBLOM v. PENSION BENEFIT INFORMATION, LLC, ET AL.,  
C.A. No. 3:23-02167

Southern District of Indiana

GARCIA v. MAXIMUS HEALTH SERVICES, INC., C.A. No. 1:23-02129

District of Kansas

NEWMAN v. AMERICA MULTI-CINEMA, INC., C.A. No. 2:23-02358

Western District of Texas

DAUCH v. CLEARRESULT CONSULTING, INC., C.A. No. 1:23-01182