

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: WIRELESS LIFESTYLE, INC., FAIR LABOR
STANDARDS ACT (FLSA) AND WAGE AND HOUR LITIGATION** MDL No. 2322

ORDER DENYING TRANSFER

Before the Panel:* Pursuant to 28 U.S.C. § 1407, common defendant Wireless Lifestyle, Inc. (Wireless Lifestyle) moves for centralization of the four actions¹ listed on Schedule A in the Western District of Missouri (or, in the alternative, the Northern District of California). Responding plaintiffs in two actions, Northern District of California *Martinez* and *Frazier*, oppose centralization.

On the basis of the papers filed and hearing session held, we conclude that Section 1407 centralization would not serve the convenience of the parties and witnesses or further the just and efficient conduct of this litigation. Although all four actions involve allegations concerning Wireless Lifestyle's compensation practices,² those allegations differ significantly from action to action. The Northern District of California *Martinez* action, for example, involves unique allegations involving compensation owed to terminated employees, while the Central District of California *Coleman* involves unique allegations that plaintiffs therein were not provided with any seating in the stores in which they worked. While there does appear to be some overlap among the actions, the differences among them appear to predominate, and thus centralization would likely hinder the just and efficient conduct of the litigation, considered as a whole. Available alternatives to centralization may minimize whatever possibilities may arise of duplicative discovery or inconsistent pretrial rulings. *See, e.g., In re Eli Lilly and Co. (Cephalexin Monohydrate) Patent Litig.*, 446 F. Supp. 242, 244 (J.P.M.L. 1978); *see also Manual for Complex Litigation, Fourth*, § 20.14 (2004).

* Judge W. Royal Furgeson, Jr., and Judge Charles R. Breyer took no part in the disposition of this matter.

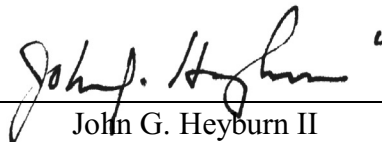
¹ Although the Section 1407 motion, as filed, also encompassed a Northern District of Illinois action, that action has since been terminated.

² Wireless Lifestyle is a retail provider of cell phones, phone rate plans, and related services.

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IT IS THEREFORE ORDERED that the motion, pursuant to 28 U.S.C. § 1407, for centralization of these actions is denied.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written above a horizontal line.

John G. Heyburn II
Chairman

Kathryn H. Vratil
Paul G. Barbadoro

Barbara S. Jones
Marjorie O. Rendell

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SCHEDULE A

Central District of California

Teausha Coleman v. Wireless Lifestyle, Inc., et al., C.A. No. 5:11-01727

Northern District of California

Yasmin Martinez v. Wireless Lifestyle, Inc., C.A. No. 3:11-05132

Kevin Fraizier, et al. v. Wireless Lifestyle, Inc., C.A. No. 3:11-05192

Western District of Missouri

Chase White, et al. v. Pasha Distribution Corporation, C.A. No. 4:11-00975