

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE ANTHEM, INC. DATA BREACH
LITIGATION

Case No. 15-MD-02617-LHK

**ORDER FOR SUPPLEMENTAL
BRIEFING RE MOTION TO REMAND**

MONICA SABATINO, et al.,

Case No. 15-CV-2873-LHK

Plaintiffs,

v.

HMO MISSOURI, INC., et al.,

Defendants.

Plaintiffs Monica Sabatino and Michael Sabatino (collectively, "Plaintiffs") bring a putative class action against defendants HMO Missouri, Inc. and Healthy Alliance Life Insurance Company (collectively, "Defendants") arising out of a cyberattack on the computer system of Defendants' parent company, Anthem, Inc. ("Anthem"). Before the Court is Plaintiffs' motion to remand the case to the Circuit Court of St. Louis City, 22d Judicial Circuit, in the State of

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Missouri. ECF No. 15.¹

Although this action was filed in the Eastern District of Missouri, which sits in the Eighth Circuit, this Court should apply Ninth Circuit law to the instant motion to remand. See *Newton v. Thomason*, 22 F.3d 1455, 1460 (9th Cir. 1994) (holding that “when reviewing federal claims, a transferee court in this circuit is bound only by our circuit’s precedent”); see also *In re Gen. Am. Life Ins. Co. Sales Practices Litig.*, 391 F.3d 907, 911 (8th Cir. 2004) (“When a transferee court receives a case from the MDL Panel, the transferee court applies the law of the circuit in which it is located to issues of federal law.”); *In re Sony Gaming Networks & Customer Data Sec. Breach Litig.*, 996 F. Supp. 2d 942, 959 (S.D. Cal. 2014) (“In interpreting federal law, a transferee court in a multidistrict case should look to the law of its own circuit rather than the law of the transferor courts’ circuits.”).

Because the current briefing does not cite relevant Ninth Circuit precedent, the Court hereby ORDERS the parties to file simultaneous supplemental briefs not to exceed ten (10) pages in length. The briefs shall be filed no later than September 4, 2015. The hearing on the motion to remand set for September 10, 2015, at 1:30 p.m. remains as set. At a minimum, the parties’ briefs should address the recent decisions granting motions to remand in other Anthem data breach cases removed to district courts in the Ninth Circuit. See *Smilow v. Anthem Blue Cross Life & Health Ins. Co.*, No. CV 15-4556-MWF(AGR), 2015 WL 4778824 (C.D. Cal. Aug. 13, 2015) (granting motion to remand); *Wickens v. Blue Cross of Cal., Inc.*, No. 15CV834-GPC JMA, 2015 WL 4255129 (S.D. Cal. July 14, 2015) (remanding case to state court).

IT IS SO ORDERED.

Dated: August 27, 2015



LUCY H. KOH
United States District Judge

¹ All ECF references are to the docket of Case No. 15-CV-2873-LHK.