

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: APPLE IPHONE 3G AND 3G-S "MMS"  
MARKETING AND SALES PRACTICES  
LITIGATION

MDL DOCKET NO. 2116

SECTION: J

THIS DOCUMENT RELATES TO ALL CASES

JUDGE BARBIER  
MAG. JUDGE WILKINSON

**PRETRIAL ORDER NO. 5**  
**DIRECT FILING OF ACTIONS IN THE EASTERN DISTRICT OF LOUISIANA**

I. SCOPE OF ORDER

1. This order shall apply to all Plaintiffs and their counsel for actions relating to Apple iPhone 3G and 3G-S "MMS" Marketing and Sales Practices Litigation that are currently pending in MDL No. 2116, hereafter subject to transfer to these proceedings, or that have been or will be originally filed in the Court (collectively, "The MDL proceedings") and all Defendants and their counsel in the MDL proceedings.

II. DIRECT FILING OF CASES INTO MDL NO. 2116

2. In order to eliminate delays associated with transfer of cases filed in or removed to other federal district courts to this Court, and to promote judicial efficiency, any plaintiff whose case would be subject to transfer to MDL 2116 may file his or her case directly in the MDL proceedings in the Eastern District of Louisiana.

3. Each case filed directly in MDL 2116 that emanates from a district outside the Eastern District of Louisiana will be filed in MDL 2116 for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation's December 3, 2009 Transfer Order. The plaintiff filing any such action shall allege facts sufficient to locate the action in a federal judicial


district where venue would be proper and shall designate such federal judicial district as the ultimate venue for the action for remand after the completion of pretrial proceedings .

4. All Plaintiffs and Defendants agree to direct filing of cases in MDL 2116 on the condition that any such cases are subject to remand under 28 U.S.C. § 1407 to a federal judicial district either designated by plaintiffs at the time of filing or determined by this Court to be the proper venue based on the facts pled in the operative complaint.

5. The inclusion of any action in *In Re: Apple iPhone 3G and 3G-S "MMS" Marketing and Sales Practices Litigation MDL No. 2116*, whether such action was or will be filed originally or directly in the Eastern District of Louisiana, shall not constitute a determination by this Court that jurisdiction or venue is proper in this District.

6. The fact that a case was filed directly in MDL 2116 pursuant to this Order will have no impact on the choice of law to be applied.

**New Orleans, Louisiana, this 19th day of February , 2010.**

  
United States District Judge