

1 THE HONORABLE BARBARA J. ROTHSTEIN
2
3
4
5

6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**

8 MATTHEW BRACKMAN, individually and on
9 behalf of all others similarly situated,

10 Plaintiff,

11 v.

12 T-MOBILE USA, INC.,

13 Defendant.

14 No. 2:21-cv-01277-BJR

15 **STIPULATED MOTION AND ORDER**
16 **TO STAY PROCEEDINGS PENDING**
17 **JPML'S RULING ON TRANSFER**

18
19
20
21
22
23
24
STIPULATED MOTION TO
STAY PROCEEDINGS
(No. 2:21-cv-01277-BJR) - 1

154135179.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

Under Western District of Washington Local Rules 7(d)(1) and 10(g), Plaintiff Matthew Brackman and Defendant T-Mobile USA, Inc. (together “the Parties”), move the Court to stay all proceedings and deadlines in this action pending a ruling by the Judicial Panel on Multidistrict Litigation (“JPML”) on the pending motion to transfer under 28 U.S.C. § 1407. *See In re: T-Mobile Customer Data Sec. Breach Litig.*, MDL No. 3019 (ECF No. 1). In support of this motion, the Parties state:

Plaintiff filed this case on September 21, 2021 and served T-Mobile on September 28, 2021. *See* ECF No. 1. Plaintiff alleges T-Mobile failed to adequately safeguard the personal information of its customers from a criminal third-party actor. *Id.* The plaintiffs in over 30 putative class actions have made similar allegations against T-Mobile based on the data-security incident. *See In re T-Mobile*, MDL No. 3019 (ECF Nos. 1-1, 2, 8-1, 11, 20, 48, 62, 65). These cases are pending in over eight federal judicial districts. *See id.*

Good cause exists for a stay because—given the number of similar, overlapping cases—it is likely the JPML will grant the pending motion to transfer and coordinate or consolidate the related cases for pretrial proceedings under 28 U.S.C. § 1407. *See id.* (ECF No. 1). This case was noticed to the JPML because of its related nature. *See id.* (ECF No. 65). In order to conserve judicial resources and the resources of the Parties in addressing multiple, related putative class actions, the Parties agree to this stay. Under these circumstances, “[c]ourts frequently grant stays pending a decision by the MDL Panel regarding whether to transfer a case.” *Good v. Prudential Ins. Co. of Am.*, 5 F.Supp.2d 804, 809 (N.D. Cal. 1998); *see Short v. Hyundai Motor Am. Inc.*, No. C19-0318JLR, 2019 WL 3067251 (W.D. Wash. July 12, 2019) (granting stay pending JPML’s ruling on Section 1407 motion); *Gonzalez v. Merck & Co.*, No. 07-cv-3034, 2007 WL 2220286, at *2 (E.D. Wash. Aug. 2, 2007) (granting defendant’s motion to stay pending transfer decision

STIPULATED MOTION TO
STAY PROCEEDINGS
(No. 2:21-cv-01277-BJR) - 2

154135179.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 and noting that “well settled case law . . . dictates a stay should be granted to promote judicial
 2 economy”); *Rivers v. Walt Disney Co.*, 980 F. Supp. 1358, 1362 (C.D. Cal. 1997) (granting stay
 3 pending JPML’s ruling because “a majority of courts have concluded that it is often appropriate to
 4 stay preliminary pretrial proceedings while a motion to transfer and consolidate is pending with
 5 the MDL Panel”); *Bonefant v. R.J. Reynolds Tobacco Co.*, No. 07-cv-60301, 2007 WL 2409980,
 6 at *1 (S.D. Fla. July 31, 2007) (“[I]t is common practice for courts to stay an action pending a
 7 transfer decision by the JPML.”).

8 And like most courts, this Court recently stayed six cases pending the JPML’s ruling on a
 9 motion to transfer. *See Donovan v. T-Mobile USA, Inc.*, No. 2:21-cv-01138-BJR (W.D. Wash.
 10 filed Sept. 15, 2021) (ECF No. 12); *Akins v. T-Mobile USA, Inc.*, No. 2:21-cv-01179-BJR (W.D.
 11 Wash. filed Sept. 15, 2021) (ECF No. 8); *Hughes v. T-Mobile USA, Inc.*, No. 2:21-cv-01139-BJR
 12 (W.D. Wash. filed Sept. 17, 2021) (ECF No. 14); *Villalon v. T-Mobile USA, Inc.*, No. 2:21-cv-
 13 1148-BJR (W.D. Wash. filed Sept. 17, 2021) (ECF No. 11); *Espanoza v. T-Mobile USA, Inc.*, No.
 14 2:21-cv-1119-BJR (W.D. Wash. filed Sept. 17, 2021) (ECF No. 29); *Huerta v. T-Mobile USA,*
 15 *Inc.*, No. 2:21-cv-01183-BJR (W.D. Wash. filed Aug. 31, 2021) (ECF No. 10). The Court should
 16 do so again and grant the Parties a short stay of proceedings until the JPML rules on the pending
 17 motion to transfer under Section 1407.

18
 19 Dated: October 5, 2021

20 By: /s/ Steve Y. Koh

21 Steve Y. Koh, WSBA No. 23284

22 Kathleen M. O’Sullivan, WSBA No. 27850

23 Lauren J. Tsuji, WSBA No. 55839

24 **PERKINS COIE LLP**

25 1201 Third Avenue, Suite 4900

26 Seattle, WA 98101-3099

27 Telephone: 206.359.8000

28 **STIPULATED MOTION TO**
STAY PROCEEDINGS
 (No. 2:21-cv-01277-BJR) - 3

29
 154135179.1

Perkins Coie LLP
 1201 Third Avenue, Suite 4900
 Seattle, Washington 98101-3099
 Phone: 206.359.8000
 Fax: 206.359.9000

1 Facsimile: 206.359.9000
2 E-mail: SKoh@perkinscoie.com
3 KOSullivan@perkinscoie.com
4 LTsuji@perkinscoie.com

5 Kristine McAlister Brown (*pro hac vice*)
6 **ALSTON & BIRD LLP**
7 1201 West Peachtree Street
8 Atlanta, GA 30309
9 Telephone: (404) 881-7000
10 Facsimile: (404) 881-7777
11 E-Mail: kristy.brown@alston.com

12 *Attorneys for Defendant T-Mobile USA, Inc.*

13 By: /s/ Matthew J. Ide
14 Matthew J. Ide, WWSA No. 26002
15 **IDE LAW OFFICE**
16 7900 SE 28th Street, Suite 500
17 Mercer Island, WA 98040
18 Telephone: (206) 625-1326
19 Facsimile: (206) 622-0909
20 Email: mjide@yahoo.com

21 Charles Schaffer, Esq. (*pro hac vice* to be filed)
22 Nicholas J. Elia, Esq.
23 **LEVIN SEDRAN & BERMAN LLP**
24 510 Walnut Street, Suite 500
Philadelphia, PA 19106
dlevin@lfsblaw.com
nelia@lfsblaw.com

25 Jeffrey S. Goldenberg, Esq. (*pro hac vice* to be filed)
26 **GOLDENBERG SCHNEIDER, LPA**
27 4445 Lake Forest Drive, Suite 490
Cincinnati, OH 45242
jgoldenberg@gs-legal.com

28 Joseph Lyon, Esq. (*pro hac vice* to be filed)
29 **THE LYON FIRM, LLC**
30 2754 Erie Ave
Cincinnati, OH 45208
jlyon@thelyonfirm.com

31 *Attorneys for Plaintiff*

32 STIPULATED MOTION TO
33 STAY PROCEEDINGS
34 (No. 2:21-cv-01277-BJR) - 4

35 154135179.1

36 Perkins Coie LLP
37 1201 Third Avenue, Suite 4900
38 Seattle, Washington 98101-3099
39 Phone: 206.359.8000
40 Fax: 206.359.9000

ORDER

IT IS SO ORDERED.

Dated this 6th day of October 2021.

s/Barbara J. Rothstein

Barbara J. Rothstein
U.S. District Court Judge

Presented by:

By: /s/ Steve Y. Koh

Steve Y. Koh, WSBA No. 23284

Kathleen M. O'Sullivan, WSBA No. 27850

Lauren J. Tsuji, WSBA No. 55839

PERKINS COIE LLP

1201 Third Avenue, Suite 4900

Seattle, WA 98101-3099

Telephone: 206.359.8000

Facsimile: 206.359.9000

E-mail: SKoh@perkinscoie.com

KOSullivan@perkinscoie.com

RESUMÉ van C. perkinscoie
LTsuij@perkinscoie.com

Kristine McAlister Brown (*pro hac vice*)

ALSTON & BIRD LLP

1201 West Peachtree Street

Atlanta, GA 30309

Telephone: (404) 881-7000

Facsimile: (404) 881-7777

E-Mail: kristy.brown@alston.com

Attorneys for Defendant T-Mobile USA, Inc.

STIPULATED MOTION TO
STAY PROCEEDINGS
(No. 2:21-cv-01277-BJR) - 5

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, Washington 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000