

THE HONORABLE BARBARA J. ROTHSTEIN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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

STEPHANIE ESPANOZA, JONATHAN
MORALES, and ALEX PYGIN, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

T-MOBILE USA, INC.,

Defendant.

No. 2:21-cv-01119-BJR

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

Under Western District of Washington Local Rules 7(d)(1) and 10(g), Plaintiffs Stephanie Espanoza, Jonathan Morales, and Alex Pygin, 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:

Plaintiffs filed this case on August 19, 2021 and served T-Mobile on August 23, 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.* ¶¶ 5–7. The plaintiffs in about 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, 2, 8-1, 11, 20, 48). These cases are pending in eight

STIPULATED MOTION AND ORDER TO STAY
PROCEEDINGS PENDING JPML'S RULING ON
TRANSFER (No. 2:21-cv-01119-BJR) - 1

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

1 federal judicial districts. *See id.*

2 Good cause exists for a stay because—given the number of similar, overlapping cases—it
3 is likely the JPML will grant the pending motion to transfer and coordinate or consolidate the
4 related cases for pretrial proceedings under 28 U.S.C. § 1407. *See id.* (ECF No. 1). And the
5 plaintiffs who filed the JPML transfer motion subsequently noticed this case because of its related
6 nature. *See id.* (ECF No. 2). So to conserve judicial resources and the resources of the Parties in
7 addressing multiple, related putative class actions, the Parties agree to this stay. Under these
8 circumstances, “[c]ourts frequently grant stays pending a decision by the MDL Panel regarding
9 whether to transfer a case.” *Good v. Prudential Ins. Co. of Am.*, 5 F.Supp.2d 804, 809 (N.D. Cal.
10 1998); *see Short v. Hyundai Motor Am. Inc.*, No. C19-0318JLR, 2019 WL 3067251 (W.D. Wash.
11 July 12, 2019) (granting stay pending JPML’s ruling on Section 1407 motion); *Gonzalez v. Merck*
12 *& Co.*, No. 07-cv-3034, 2007 WL 2220286, at *2 (E.D. Wash. Aug. 2, 2007) (granting defendant’s
13 motion to stay pending transfer decision and noting that “well settled case law . . . dictates a stay
14 should be granted to promote judicial economy”); *Rivers v. Walt Disney Co.*, 980 F. Supp. 1358,
15 1362 (C.D. Cal. 1997) (granting stay pending JPML’s ruling because “a majority of courts have
16 concluded that it is often appropriate to stay preliminary pretrial proceedings while a motion to
17 transfer and consolidate is pending with the MDL Panel”); *Bonefant v. R.J. Reynolds Tobacco Co.*,
18 No. 07-cv-60301, 2007 U.S. Dist. LEXIS 65614, 2007 WL 2409980, at *1 (S.D. Fla. July 31,
19 2007) (“[I]t is common practice for courts to stay an action pending a transfer decision by the
20 JPML.”).

21 And like most courts, this Court recently stayed a case pending the JPML’s ruling on a
22 motion to transfer. *Shattuck v. AIA, Inc.*, No. 2:21-cv-00945-BJR, 2021 U.S. Dist. LEXIS 164045
23 (W.D. Wash. Aug. 30, 2021) (Rothstein, J.) (granting stay over plaintiff’s opposition). The Court

24 STIPULATED MOTION AND ORDER TO STAY
PROCEEDINGS PENDING JPML’S RULING ON
TRANSFER (No. 2:21-cv-01119-BJR) - 1

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

1 should do so again and grant the Parties a short stay of proceedings until the JPML rules on the
2 pending motion to transfer under Section 1407.

3
4 Dated: September 17, 2021

5 By: /s/ Steve Y. Koh

6 Steve Y. Koh, WSBA No. 23284
7 Kathleen M. O'Sullivan, WSBA No. 27850
8 Lauren J. Tsuji, WSBA No. 55839
9 **PERKINS COIE LLP**
10 1201 Third Avenue, Suite 4900
11 Seattle, WA 98101-3099
12 Telephone: 206.359.8000
13 Facsimile: 206.359.9000
14 E-mail: SKoh@perkinscoie.com
15 KOSullivan@perkinscoie.com
16 LTsuji@perkinscoie.com

17 Kristine McAlister Brown (*pro hac vice*)

18 **ALSTON & BIRD LLP**
19 1201 West Peachtree Street
20 Atlanta, GA 30309
21 Telephone: (404) 881-7000
22 Facsimile: (404) 881-7777
23 E-Mail: kristy.brown@alston.com

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

By: /s/ Beth E. Terrell

Beth E. Terrell, WSBA No. 26759
TERRELL MARSHALL LAW GROUP PLLC
936 N. 34th Street, Suite 300
Seattle, Washington 98103
Telephone: (206) 816-6603
Facsimile: (206) 319-5450
E-Mail: bterrell@terrellmarshall.com

M. Anderson Berry (*pro hac vice forthcoming*)

**CLAYEO C. ARNOLD, A
PROFESSIONAL LAW CORP.**
865 Howe Avenue
Sacramento, California 95825

STIPULATED MOTION AND ORDER TO STAY
PROCEEDINGS PENDING JPML'S RULING ON
TRANSFER (No. 2:21-cv-01119-BJR) - 1

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

1 Telephone: (916) 777-7777
Facsimile: (916) 924-1829
2 E-Mail: aberry@justice4you.com

3 Gary E. Mason (*pro hac vice forthcoming*)
David K. Lietz (*pro hac vice forthcoming*)
4 **MASON LIETZ & KLINGER LLP**
5 5101 Wisconsin Avenue NW, Suite 305
Washington, DC 20016
Telephone: (202) 429-2290
6 Facsimile: (202) 429-2294
E-Mail: gmason@masonllp.com
7 dlietz@masonllp.com

8 Gary M. Klinger (*pro hac vice forthcoming*)
MASON LIETZ & KLINGER LLP
9 227 W. Monroe Street, Suite 2100
Chicago, Illinois 60606
10 Telephone: (202) 429-2290
Facsimile: (202) 429-2294
11 E-Mail: gklinger@masonllp.com

12 William Howard (*pro hac vice forthcoming*)
THE CONSUMER PROTECTION FIRM
13 401 East Jackson Street, Suite 2340
Truist Place
14 Tampa, Florida 33602
Telephone: (813) 500-1500
15 Facsimile: (813)-435-2369
E-Mail: Billy@TheConsumerProtectionFirm.com

16 *Attorneys for Plaintiffs, Individually and on Behalf of all Others Similarly Situated*
17
18
19
20
21
22
23

24 STIPULATED MOTION AND ORDER TO STAY
PROCEEDINGS PENDING JPML'S RULING ON
TRANSFER (No. 2:21-cv-01119-BJR) - 1

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

ORDER

IT IS SO ORDERED.

Dated this 20th day of September 2021.

s/Barbara J. Rothstein
Barbara J. Rothstein
U.S. District Court Judge

Presented 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
LTsuji@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 AND ORDER TO STAY
PROCEEDINGS PENDING JPML'S RULING ON
TRANSFER (No. 2:21-cv-01119-BJR) - 1

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