

**BEFORE THE UNITED STATES JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

**IN RE: T-Mobile Customer Data Security  
Breach Litigation**

**MDL No. 3019**

**DEFENDANT T-MOBILE USA, INC.’S RESPONSE TO MOTION FOR TRANSFER  
FOR COORDINATED OR CONSOLIDATED PRETRIAL PROCEEDINGS**

Defendant T-Mobile USA, Inc. (“T-Mobile”)<sup>1</sup> hereby responds to the Motion for Transfer for Coordinated or Consolidated Pretrial Proceedings Pursuant to 28 U.S.C. § 1407 (the “JPML Petition”) filed by Plaintiffs in *Daruwalla*.<sup>2</sup> For the reasons set forth herein, T-Mobile supports transfer for centralization but opposes Plaintiffs’ request that the proceedings be transferred to the Western District of Washington. T-Mobile instead supports transfer to the Western District of Missouri.<sup>3</sup>

**INTRODUCTION**

T-Mobile recently announced that it was the victim of a criminal cyberattack. That announcement resulted in the filing of a spate of putative class actions, asserting claims arising out of the attack. As of the date of this filing, twenty-nine putative class actions have been filed in eight federal district courts (the “T-Mobile Data Breach Cases”). The Plaintiffs in all of these cases seek to hold T-Mobile liable for the cyberattack. They make the same core factual allegations, assert largely the same legal claims, and seek to represent the same or overlapping

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<sup>1</sup> While most of the actions name T-Mobile USA, Inc. as the defendant, certain actions name T-Mobile US, Inc. Undersigned counsel submits this Response on behalf of both entities.

<sup>2</sup> See Plaintiffs’ Motion for Transfer of Actions, *In re: T-Mobile Customer Data Sec. Breach Litig.*, MDL No. 3019 (J.P.M.L. Aug. 23, 2021), ECF No. 1-1 (filed by Plaintiffs in *Daruwalla v. T-Mobile*, No. 2:21-cv-01118 (W.D. Wash.)).

<sup>3</sup> T-Mobile files this Response subject to, and without waiving, its right to compel arbitration pursuant to T-Mobile’s Terms and Conditions of service, which contain both mandatory arbitration obligations and class action waiver provisions.

classes. Accordingly, T-Mobile agrees that transfer for coordinated or consolidated pretrial proceedings is appropriate under 28 U.S.C. § 1407.

T-Mobile disagrees, however, that the Western District of Washington is the most appropriate transferee court. Although T-Mobile's headquarters are located in that district, the Western District of Washington is not well-situated to preside over this action as a result of its dire shortage of active district court judges. The Western District of Washington has the highest judicial vacancy rate in the country.<sup>4</sup> Indeed, the district has five longstanding vacancies and only two active judges.<sup>5</sup> All of these vacancies are considered "judicial emergencies" by the U.S. Judicial Conference.<sup>6</sup> And the district's chief judge, the Honorable Ricardo S. Martinez, has been vocal about the urgency of the situation, calling it a "real bind" and noting that the district is in the unsustainable position of relying on its senior judges to handle approximately 67 percent of its caseload.<sup>7</sup>

This is not a dispute that should be assigned to a court experiencing such severe resource constraints. Data breach litigation tends to continue for many years, consume significant judicial resources, and present questions of first impression on difficult issues at the intersection of cybersecurity and complex civil litigation. Factual questions and discovery disputes can require extensive judicial involvement given the highly technical subject matter and the frequency of competing expert opinions. And the administrative challenges can be daunting where, as here, the

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<sup>4</sup> Gene Johnson, *Diverse Panel Recommends US Judge Candidates in Washington*, ASSOCIATED PRESS (Mar. 29, 2021), <https://apnews.com/article/joe-biden-patty-murray-seattle-washington-maria-cantwell-cab5b94458c3c4ca0c47773fc35925bd>.

<sup>5</sup> *Id.*

<sup>6</sup> *Judicial Emergencies*, UNITED STATES COURTS, <https://www.uscourts.gov/judges-judgeships/judicial-vacancies/judicial-emergencies> (last updated Sept. 13, 2021).

<sup>7</sup> Madison Alder, *Short-Benched U.S. Trial Courts Face Post-Pandemic Crisis*, BLOOMBERG LAW (Apr. 9, 2020), <https://news.bloomberglaw.com/us-law-week/short-benched-u-s-trial-courts-likely-face-post-pandemic-crisis>.

parties hail from seventeen different states. Accordingly, T-Mobile respectfully submits that the Panel should assign this matter to the Western District of Missouri, a court that has ample judicial resources, docket conditions well-suited for this litigation, and a location that is central and convenient for the parties.

### **ARGUMENT**

#### **I. Transfer for Consolidation or Coordination of Pretrial Proceedings Is Proper.**

Transfer to a single jurisdiction for coordinated or consolidated pretrial proceedings is appropriate when actions pending in various districts involve one or more common questions of fact, and transfer “will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407(a). In exercising its discretion under § 1407(a), the Panel considers whether transfer will help “eliminate duplicative discovery, avoid inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.” *In re Vioxx Prods. Liab. Litig.*, 360 F. Supp. 2d 1352, 1354 (J.P.M.L. 2005).

The Panel has long recognized that lawsuits seeking to represent overlapping classes are particularly well-suited for centralization “because of the likelihood of overlapping or conflicting class definitions or orders and the benefits to be derived from handling all such actions in a single court.” David H. Herr, MULTIDISTRICT LITIGATION MANUAL § 5:14 (2001); *see also In re Seresto Flea & Tick Collar Mktg., Sales Practices & Prods. Liab. Litig.*, MDL No. 3009, 2021 U.S. Dist. LEXIS 150349, at \*3 (J.P.M.L. Aug. 11, 2021) (“Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings, particularly with respect to class certification motions; and conserve the resources of the parties, their counsel, and the judiciary.”); *In re Chrysler Corp. Vehicle Paint Litig.*, MDL No. 1239, 1998 U.S. Dist. LEXIS 15675, at \*2 (J.P.M.L. Oct. 2, 1998) (ordering transfer where “the actions in this litigation involve common questions of

fact concerning allegations by overlapping classes of defects in the paint of certain Chrysler vehicles”); *In re Hawaiian Hotel Room Rate Antitrust Litig.*, 438 F. Supp. 935, 936 (J.P.M.L. 1977) (“Section 1407 centralization is especially important to ensure consistent treatment of the class action issues.” (citing *In re Folding Carton Antitrust Litig.*, 415 F. Supp. 384, 386 (J.P.M.L. 1976))); *In re Sugar Indus. Antitrust Litig.*, 395 F. Supp. 1271, 1273 (J.P.M.L. 1975) (“[T]ransfer of actions under Section 1407 is appropriate, if not necessary, where the possibility of inconsistent class determination exists.”) (internal citations omitted). In particular, the Panel has repeatedly found that § 1407 transfer is appropriate where multiple putative consumer class actions are premised on the same data breach and seek to represent overlapping classes. *See, e.g., In re Sonic Corp. Customer Data Sec. Breach Litig.*, 276 F. Supp. 3d 1382, 1383 (J.P.M.L. 2017); *In re Ashley Madison Customer Data Sec. Breach Litig.*, 148 F. Supp. 3d 1378, 1379–80 (J.P.M.L. 2015); *In re Sony Gaming Networks & Customer Data Sec. Breach Litig.*, 802 F. Supp. 2d 1370, 1371 (J.P.M.L. 2011).

This case is no different. Each of the twenty-nine putative class actions arises from the same data breach, and the Plaintiffs seek to represent overlapping classes. Questions about the facts and circumstances surrounding the cyberattack, as well as T-Mobile’s data security measures, cut across all the T-Mobile Data Breach Cases. Consolidating the cases will thus serve § 1407(a)’s objective of eliminating duplicative discovery and conserving resources of the parties, their counsel, and the courts. It makes little sense for discovery to proceed in twenty-nine cases independently when it will be targeted to the same core facts.

Moreover, although there are certain legal and factual differences among the T-Mobile Data Breach Cases, all of these cases arise out of and seek to hold T-Mobile responsible for the cyberattack and involve overlapping claims and theories of liability. Consequently, the cases are

likely to present similar legal and factual issues. Transfer for centralization would conserve judicial resources and prevent inconsistent rulings by ensuring that such motions are decided by the same judge. In addition, transfer would promote orderly and efficient case management, as a single judge can provide a single schedule for discovery and pretrial motions that is convenient for all of the various parties.

These cases are also appropriate for transfer because they are in their infancy. The first cases were filed on August 19, 2021, and T-Mobile has not yet responded to any of the operative complaints. Accordingly, the work of the transferee court will not duplicate the effort of any transferor court or create any inconsistent rulings.<sup>8</sup> Finally, informal coordination is not a viable option in a dispute with such a significant number of matters, plaintiffs, and counsel. *See In re Valsartan N-Nitrosodimethylamine Ndma Contamination Prods. Liab. Litig.*, 363 F. Supp. 3d 1378, 1382 (J.P.M.L. 2019) (“We find that Section 1404 transfer is not a practicable alternative to centralization, given the number of actions, districts, and counsel for plaintiffs and defendants . . . The number of involved districts and counsel also would make efforts to informally coordinate discovery and pretrial motions impracticable.”).

## **II. The Panel Should Choose a Transferee Court That Is Not Already Overwhelmed and Understaffed.**

### **A. The Western District of Washington Has the Highest Judicial Vacancy Rate in the Country.**

At first glance, the Western District of Washington may appear to be the natural choice. Most of the cases currently pending are located there, and T-Mobile’s primary corporate headquarters is in Bellevue, Washington, where there are likely to be relevant documents and

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<sup>8</sup> To reap the benefits of centralization and ensure an efficient path forward, T-Mobile intends to file motions to stay the individual actions until the Panel can resolve this Petition. Some Plaintiffs have agreed to stays; other oppose them.

potential witnesses. Nonetheless, T-Mobile believes that, due to current resource constraints in that district, another venue would be more appropriate. While the district's judges are highly revered and extremely hard-working, the court currently has five judicial vacancies and just two active judges, which is the highest judicial vacancy rate in the country.<sup>9</sup> The last judge to be confirmed to the court was the Honorable Richard A. Jones in 2007.<sup>10</sup> All five vacancies have been pending for over eighteen months, and three have been pending for over five years.<sup>11</sup>

The Judicial Conference of the United States considers all five vacancies in the Western District of Washington to be “judicial emergencies.”<sup>12</sup> That term is not arbitrary or hyperbolic. It applies to “any vacancy in existence more than 18 months where weighted filings are between 430 to 600 per judgeship.”<sup>13</sup> The length of a vacancy is relevant because the longer a seat is vacant, the more strain is placed on a district's remaining judges. Frequently, a district's senior judges are required to pick up the slack by effectively handling the docket of an active judge, despite having earned and taken senior status.

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<sup>9</sup> See Alder, *supra* n.7.

<sup>10</sup> See *Judge Richard A. Jones Biography*, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, <https://www.wawd.uscourts.gov/judges/jones-bio> (last visited Sept. 13, 2021).

<sup>11</sup> See *Judicial Emergencies*, *supra* n.6.

<sup>12</sup> *Id.*

<sup>13</sup> *Judicial Emergency Definition*, UNITED STATES COURTS, <https://www.uscourts.gov/judges-judgeships/judicial-vacancies/judicial-emergencies/judicial-emergency-definition> (last visited Sept. 13, 2021). “Weighted filings” is a term of art designed and calculated by the Judicial Conference. Civil and criminal actions expected to require an average amount of time for judges are assigned a weight of approximately 1.0. For more time-consuming cases, higher weights are assessed (e.g., a death penalty habeas corpus case is assigned a weight of 12.89), while cases demanding relatively little time from judges receive lower weights (e.g., an overpayment and recovery cost case involving a defaulted student loan is assigned a weight of 0.10). See *Explanation of Selected Terms*, UNITED STATES COURTS, [https://www.uscourts.gov/sites/default/files/explanation-selected-terms-district-march-2012\\_0.pdf](https://www.uscourts.gov/sites/default/files/explanation-selected-terms-district-march-2012_0.pdf) (last visited Sept. 13, 2021).

That appears to be what has been happening in the Western District of Washington for over five years. Indeed, Chief Judge Martinez has repeatedly spoken out about the strain that these vacancies put on the court, recently telling the Associated Press: “we’re going to need to put a lot more pressure on our judges, especially our senior judges, who worked so hard to be able to reduce their schedules and now they can’t,”<sup>14</sup> adding that “[t]he average age of a judge trying cases in the Western District right now is 77.”<sup>15</sup> Whereas senior judges typically handle about 20 percent of the total caseload, in the Western District of Washington, Chief Judge Martinez estimates that the senior judges handle 67 percent of the caseload.<sup>16</sup> The pandemic has only exacerbated this situation, Chief Judge Martinez noted, explaining that “[h]owever long we’re down, all those trials, every in court hearing that would have normally been scheduled, criminal and civil, have been pushed down the line.”<sup>17</sup>

On the positive side, President Biden has announced nominations for three of the five vacancies. However, no one can predict with certainty whether or when the Senate will confirm those nominees. Moreover, the district’s two active judges are currently eligible to take senior status or retire, which would, of course, only make the situation worse.<sup>18</sup>

**B. Given the Size and Complexity of These Cases, Judicial Resources Are More Important Than the Location of Documents and Potential Witnesses.**

The Panel regularly considers the docket conditions and available judicial resources of potential transferee courts in deciding where to transfer MDLs. *See, e.g., In re Premera Blue Cross Customer Data Sec. Breach Litig.*, MDL No. 2633, 110 F. Supp. 3d 1358, 1360 (J.P.M.L. 2015) (citing “judicial resources” and transferring MDL to District of Oregon when seven out of

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<sup>14</sup> Alder, *supra* n.7.

<sup>15</sup> Johnson, *supra* n.4.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *See id.*

eight actions were pending in Western District of Washington); *In re Wright Med. Tech. Inc., Conserve Hip Implant Prods. Liab. Litig.*, 844 F. Supp. 2d 1371, 1373 (J.P.M.L. 2012) (transferring to district that it found “enjoys favorable docket conditions.”); *In re Skechers Toning Shoe Prods. Liab. Litig.*, 831 F. Supp. 2d 1367, 1370 (J.P.M.L. 2011) (“[T]he Western District of Kentucky enjoys general docket conditions conducive to the efficient resolution of this litigation.”); *In re Webvention LLC (’294) Patent Litig.*, 831 F. Supp. 2d 1366, 1367 (J.P.M.L. 2011) (“The relative docket conditions in the District of Maryland are more favorable than the other proposed transferee forums.”).

This factor is especially important here given that the proposed MDL consists of twenty-nine cases that are all legally, factually, and administratively challenging. Data breach litigation is a rapidly emerging area of the law, and the law is still being developed. The judges presiding over such cases must frequently resolve hotly-contested questions of first impression, such as what constitutes sufficient harm to show standing, whether and how common law concepts and general consumer protection statutes from various states apply to the twenty-first century problem of international cybercrime, and whether or how to certify a class consisting of a large and diffuse group of consumers. These cases are factually complex and frequently involve massive amounts of data and competing experts opining on technical questions of cybersecurity. Finally, these cases are administratively difficult and unwieldy, often featuring dozens of parties and counsel who are scattered across the country. All of this counsels in favor of transferring to a district that is not already overburdened and understaffed.

By contrast, the location of the parties, documents, and witnesses should weigh far less heavily in this case for at least four reasons. First, this is truly a nationwide dispute. T-Mobile has operations, employees, and customers located throughout the country. It is unsurprising, then,

that plaintiffs in these matters hail from seventeen different states and every region of the country. Similarly, the plaintiffs' lawyers are based in sixteen states and every region. While relevant documents and potential witnesses may be located at T-Mobile's headquarters in Bellevue, Washington, relevant documents and potential witnesses are also likely to be located at the company's second headquarters in Overland Park, Kansas, or in other states where it stores data or maintains employees. In addition, T-Mobile expects that all parties will retain expert witnesses located in various parts of the country. If anything, the scattered nature of the parties, witnesses, and evidence counsels in favor of a district in the middle of the country. *See infra* Section III.

Second, as the Panel has long recognized, the location of documents and witnesses is less important than other factors given that discovery need not occur in the transferee district. *See* MULTIDISTRICT LITIGATION MANUAL § 6:3 ("The location of documents and witnesses was once a very important factor in selection of a transferee court; in the internet age the Panel recognizes that discovery can be conducted essentially anywhere and the fruits of discovery made available to all parties without needing to travel to the district where the action is pending."); *see also In re Tasigna Nilotinib Prods. Liab. Litig.*, MDL No. 3006, 2021 U.S. Dist. LEXIS 150352, at \*4–5 (J.P.M.L. Aug. 10, 2021) (transferring MDL to location different from defendant's headquarters without reference to the location of documents and witnesses); *In re Folgers Coffee Mktg. & Sales Practices Litig.*, MDL No. 2984, 2021 U.S. Dist. LEXIS 63657, at \*3 (J.P.M.L. Apr. 1, 2021) (same); *In re Ashley Madison*, 148 F. Supp. 3d at 1380 (same). This is especially true during the pandemic when courts and attorneys throughout the country have proven able to effectively

conduct hearings, conferences, and depositions remotely. Indeed, the Panel itself has effectively conducted hearings via video or teleconference since the beginning of the pandemic.<sup>19</sup>

Third, the Honorable Barbara Rothstein, who is assigned to the seventeen Western District of Washington actions, currently sits in Washington, D.C. and is a strong proponent of virtual proceedings.<sup>20</sup> The fact that Judge Rothstein is able to effectively manage her docket from across the country underscores the point that location is a far less important consideration in 2021. But, to the extent the Panel disagrees and believes physical location does matter, that factor does not actually point to the Western District of Washington, given that almost all of the cases filed in that court have been assigned to a judge who, for the most part, is not physically located in the Western District of Washington.

Finally, to the extent assigning the MDL outside of Washington would impose a travel burden on Washington witnesses, that burden would largely be borne by T-Mobile. And it is a

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<sup>19</sup> See First Amendment to the Hearing Session Order and Attached Schedule Filed August 13, 2021, UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION (Sept. 3, 2021), [https://www.jpml.uscourts.gov/sites/jpml/files/First%20Amendment%20Hearing%20Session%20Filed\\_Sep%202021.pdf](https://www.jpml.uscourts.gov/sites/jpml/files/First%20Amendment%20Hearing%20Session%20Filed_Sep%202021.pdf); Hearing Session Order & Amendments, UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION (Jan. 30, 2020), [https://www.jpml.uscourts.gov/sites/jpml/files/Hearing\\_Session\\_Orders\\_Archive\\_2020\\_1.pdf](https://www.jpml.uscourts.gov/sites/jpml/files/Hearing_Session_Orders_Archive_2020_1.pdf); Hearing Session Order & Amendments, United States Judicial Panel on Multidistrict Litigation (Jan. 28, 2020), [www.jpml.uscourts.gov/sites/jpml/files/Hearing\\_Session\\_Orders\\_Archive\\_2021\\_1.pdf](https://www.jpml.uscourts.gov/sites/jpml/files/Hearing_Session_Orders_Archive_2021_1.pdf).

<sup>20</sup> Judge Rothstein currently sits by designation on the District Court for the District of Columbia. See *Senior Judge Barbara J. Rothstein*, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, <https://www.dcd.uscourts.gov/content/senior-judge-barbara-j-rothstein> (last visited Sept. 13, 2021); *Judge Barbara J. Rothstein Chambers Procedures*, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, <https://www.wawd.uscourts.gov/judges/rothstein-procedures> (last visited Sept. 13, 2021). She was recently quoted as saying “Amen from all of us!” in an article promoting remote trials. Ross Todd, *How This Senior Judge Became the Federal Judiciary’s Most Effective Evangelist for Virtual Trials*, THE AMERICAN LAWYER (Feb. 25, 2021).

burden that T-Mobile would be willing to bear to ensure that this important and complex matter is assigned to a court that is in the best position to efficiently and effectively manage it.

**III. The Western District of Missouri Is an Appropriate Forum for This Complex, Nationwide, Multidistrict Litigation.**

**A. T-Mobile's Second Headquarters Is Located Twenty Minutes From the Western District of Missouri's Primary Courthouse.**

While T-Mobile's main headquarters is located in Bellevue, Washington, T-Mobile recently merged with Sprint Corporation. As a result, T-Mobile operates a second headquarters from the location of Sprint's former headquarters in Overland Park, Kansas.<sup>21</sup> The Overland Park headquarters is just outside of Kansas City and a mere twenty-minute drive from the main Western District of Missouri courthouse. Because of the Overland Park headquarters, there may be some documents and witnesses located in the close vicinity of the Western District of Missouri. Given the judicial emergencies that the Western District of Washington is currently experiencing, a courthouse near T-Mobile's second headquarters is a natural alternative for this MDL.

**B. The Western District of Missouri Has No Vacancies and Far Less Congestion Than the Western District of Washington.**

The Western District of Missouri has six active judges, four senior judges, and zero judicial vacancies.<sup>22</sup> It is therefore unsurprising that the Western District of Missouri has a much lower number of civil cases pending on a per judge basis than the Western District of Washington: approximately 164 civil cases per judge in W.D. Missouri versus approximately 231 civil cases

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<sup>21</sup> Kevin Hardy, *T-Mobile CEO Commits to Uphold Sprint's Legacy, Keep Major Jobs Presence in Kansas City*, KANSAS CITY STAR (Aug. 3, 2020).

<sup>22</sup> See *Judges*, UNITED STATES COURTS WESTERN DISTRICT OF MISSOURI, <https://www.mow.uscourts.gov/district/judges> (last visited Sept. 14, 2021); *Current Judicial Vacancies*, UNITED STATES COURTS, <https://www.uscourts.gov/judges-judgeships/judicial-vacancies/current-judicial-vacancies> (last updated Sept. 14, 2021).

per judge in W.D. Washington.<sup>23</sup> Of the jurisdictions in which the cases are currently pending, the Western District of Missouri has the second-to-lowest number of cases per judge—only the Western District of Oklahoma’s number is slightly lower.<sup>24</sup>

**C. The Western District of Missouri Is a Central and Accessible Forum for This Nationwide Litigation.**

The Western District of Missouri, where one of the T-Mobile Data Breach Cases is currently pending, is also an ideal forum for this case based on its geographic centrality. The Panel has often considered centrality and accessibility of the transferee forum in cases where the parties and actions are geographically diverse. *See, e.g., In re Davol, Inc./C.R. Bard, Inc. Polypropylene Hernia Mesh Prods. Liab. Litig.*, 316 F. Supp. 3d 1380, 1381 (J.P.M.L. 2018) (selecting transfer forum that was “centrally located geographically, making it a convenient forum for this nationwide litigation”); *In re Sonic Corp.*, 276 F. Supp. 3d at 1383 (“We are persuaded that the Northern District of Ohio—a centrally-located and easily accessible location—is an appropriate transferee forum for this litigation.”); *In re CenturyLink Residential Customer Billing Disputes Litig.*, 280 F. Supp. 3d 1383, 1385 (J.P.M.L. 2017) (“Minneapolis offers a central, readily accessible venue for all parties.”); *In re Ashley Madison*, 148 F. Supp. 3d at 1380 (noting that the Eastern District of Missouri “is a geographically central and accessible forum for this nationwide litigation”); *In re*

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<sup>23</sup> *See* Table C-1–U.S. District Courts–Civil Cases Filed, Terminated, and Pending, by Jurisdiction–During the 12-Month Period Ending June 30, 2021, STATISTICAL TABLES FOR THE FEDERAL JUDICIARY, <https://www.uscourts.gov/statistics/table/c-1/statistical-tables-federal-judiciary/2021/06/30> (last visited Sept. 13, 2021). These figures were derived by dividing the total number of cases pending by the number of active and senior judges on each court. For the Western District of Washington, the total number of civil cases pending as of June 30, 2021 was 2538, which, divided by the number of judges, 11, is approximately 231. For the Western District of Missouri, the total number of civil cases was 1637, which divided by the number of judges, 10, is approximately 164.

<sup>24</sup> For further illustration, also as of June 30, 2021, the Northern District of California had 686 civil cases per judge, and the District of New Jersey had 2816 civil cases per judge—significantly greater than the Western District of Missouri’s count of 164 civil cases per judge. *See id.*

*Velocity Express, Inc., Wage & Hour Emp. Practices Litig.*, 581 F. Supp. 2d 1368, 1369 (J.P.M.L. 2008) (“Given the geographic dispersal of pending actions, as well as the nationwide business of Velocity Express, no particular district or region emerges as the focal point for this litigation. We are persuaded that the Eastern District of Wisconsin is an appropriate transferee forum for this litigation. It is a centrally located district with the time and resources to devote to this litigation.”); *In re Library Editions of Children’s Books*, 297 F. Supp. 385, 387 (J.P.M.L. 1968) (“[A]lthough air travel renders both California and New York readily accessible, there is still something to be said for the convenience of a geographically central forum in coast-to-coast litigation.”).

This is truly a nationwide dispute, with Plaintiffs, counsel, and potential witnesses located all over the country, as noted above. The Western District of Missouri’s main courthouse in Kansas City, Missouri is located just twenty minutes from Kansas City International Airport, which currently offers direct flights to 39 cities, including New York, Los Angeles, Seattle, Houston, Dallas, and Atlanta.<sup>25</sup> Whereas the East Coast plaintiffs, counsel, and any witnesses would have to take a five- to six-hour flight to attend a hearing in Seattle, most of the country can reach Kansas City in just a few hours.<sup>26</sup> Where, as here, the number and geographic dispersal of

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<sup>25</sup> See Nonstop Destinations, KANSAS CITY AVIATION DEPARTMENT, <https://www.flykci.com/flight-information/nonstop-destinations/> (last visited Sept. 13, 2021). The Western District of Missouri case is currently assigned to the Honorable Nanette Kay Laughrey, whose chambers are located in Jefferson City, MO. Jefferson City is approximately two hours and forty-five minutes from Kansas City International Airport and approximately an hour and fifty minutes from Lambert International Airport in St. Louis, which also serves as a major hub. See Non Stop Service, ST. LOUIS LAMBERT INTERNATIONAL AIRPORT, <https://www.flystl.com/flights-and-airlines/non-stop-service> (last visited Sept. 13, 2021). To the extent this creates an inconvenience, the Panel could consider assigning the matter to any of the many capable jurists who sit in Kansas City, Missouri.

<sup>26</sup> See Number of Weekly Cataloged Flights from Seattle, FLIGHTSPHERE, <https://flightsphere.com/flight-time/from/seattle/> (last visited Sept. 13, 2021).

actions is likely to continue to grow, a centrally-located forum like the Western District of Missouri is the most convenient option for the majority of the current and prospective parties.

**CONCLUSION**

For the foregoing reasons, the Panel should transfer these cases for pretrial proceedings in the Western District of Missouri.

Respectfully submitted this 14th day of September, 2021.

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