

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

In re: GEICO DATA BREACH LITIGATION

MDL No. _____

**MOTION TO TRANSFER AND CENTRALIZE RELATED
ACTIONS FOR CONSOLIDATION OR COORDINATION OF
PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. § 1407**

Defendants/Movants, Government Employees Insurance Company, GEICO Indemnity Company, GEICO Casualty Company and GEICO General Insurance Company (collectively, “GEICO”), respectfully move for an order transferring and centralizing all currently filed related actions concerning the purported data breach incident that occurred on GEICO’s website to the Eastern District of New York or, in the alternative, the District of Maryland, or such other district the Panel may deem suitable, for consolidated or coordinated pretrial proceedings as a Multidistrict Litigation (“MDL”) pursuant to 28 U.S.C. § 1407 and Rule 7.2(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation.

GEICO states the following in support of this MDL application:

1. To date, five proposed national class actions have been brought on behalf of persons who allege that they were impacted by fraudsters’ unauthorized access to GEICO’s online sales system between January 21, 2021 and March 1, 2021 (the “Incident”).
2. The Incident occurred when fraudsters used personal information, obtained from other sources, to impersonate individuals on GEICO’s online sales system in an apparent effort to obtain the impersonated individuals’ driver’s license numbers (“DLN”). The fraudsters’ use of the personal information already in their possession to exploit GEICO’s online sales application may have resulted in unauthorized access to DLN information of individuals who were not GEICO

customers, as well as some present and former customers of GEICO.¹ Approximately 85% of individuals believed to be potentially impacted are in New York.

3. As set forth in the Schedule of Related Actions submitted with GEICO's supporting memorandum of law, three of the proposed national class actions are pending in the Eastern District of New York, one action is pending in the Southern District of California, and one action is pending in the District of Maryland, Southern Division (the "Related Actions"). GEICO anticipates that additional actions may be filed as individual and proposed class actions concerning the Incident.

4. Transfer and centralization of the Related Actions will further the goals of 28 U.S.C. § 1407 by conserving judicial and party resources, reducing costs, and preventing inconsistent pretrial rulings. In addition, centralization will further the goal of ensuring the just and efficient conduct of these actions.

5. The Related Actions are all in the same or substantially similar procedural posture. The three actions filed and pending in the Eastern District of New York have been designated as related actions and assigned to the Honorable Kiyo A. Matsumoto (the "New York Actions"). Plaintiffs in *Mirvis, Butler and Forelich v. Berkshire Hathaway, Inc. and Government Employees Insurance Company (a/k/a GEICO)*, No. 21-CV-02210 (KAM)(RLM) (Eastern District of New York) and *Brody v. Berkshire Hathaway Inc and Government Employees Insurance Company*, No. 21-CV- 02481 were permitted to voluntarily dismiss the claims that they initially asserted against Berkshire Hathaway Inc. ("BHI") in their respective complaints. BHI was similarly voluntarily

¹ *See* Lee Mathews, Hackers Stole Customers' License Numbers From Geico In Months-Long Breach, FORBES (Apr. 20, 2021, 11:57 A.M. EDT), <https://www.forbes.com/sites/leemathews/2021/04/20/hackers-stole-customers-license-numbers-from-geico-in-months-long-breach/?sh=146576a68658> (last visited May 6, 2021).

dismissed from the Maryland action, and was not a named party in the other Related Actions. Accordingly, BHI is no longer a party in any of the Related Actions.

6. Consistent with local practice and Judge Matsumoto's individual rules, on June 11, 2021, GEICO filed individual letters in each of the New York Actions to address GEICO's request for a stay of each action pending determination of this MDL application. Judge Matsumoto ordered that the parties respond to GEICO's stay request in advance of a pre-motion conference on June 24, 2021. In response, plaintiffs' counsel in each New York Action expressed support for coordination of the Related Actions and consented to the stay of the New York Actions pending the determination of this MDL application.

7. At the Court's June 24, 2021 pre-motion conference, the unsuccessful efforts by plaintiffs' counsel to seek unanimity to informally coordinate the Related Actions were discussed. As a result, plaintiffs' counsel in the three New York Actions informed the Court that they support the transfer and centralization sought in this application. The Court therefore granted the stay of the New York Actions, on consent, and directed GEICO to file this application no later than July 6, 2021, which it has now done.

8. The Court entered a Docket Text Order following the conference confirming these rulings and the New York Actions are therefore stayed pending this application. GEICO anticipates similarly seeking a stay of the Maryland and California Related Actions, pending hearing and determination of this application.

9. No responsive pleadings or dispositive motions have been filed and no discovery has been conducted in any of the Related Actions. Centralization will therefore allow a single judge to efficiently resolve common legal and factual issues and streamline both merits and class certification discovery.

10. Given the nationwide scope of the Related Actions and that there are thousands of potentially impacted individuals across the country, as well as the reality that electronic discovery is equally accessible regardless of forum, each of the districts in which actions are pending are suitable transferee districts. However, transfer to the Eastern District of New York would allow the Panel to transfer the actions to the District where the majority of the cases are currently pending (before the same Judge). Moreover, the vast majority of those individuals believed to be potentially impacted by the Incident are in New York.

11. Alternatively, the District of Maryland is consistent with the location of GEICO's principal place of business and will therefore provide a convenient forum for potential witnesses with knowledge relating to the purported Incident, including GEICO's data practices, investigation and response to the Incident. Moreover, currently favorable docket conditions exist in either of these Districts.

12. This motion is further based on the Memorandum of Law, Schedule of Actions and Dockets and Complaints, which are being filed in support of this motion.

WHEREFORE, Defendants/Movants respectfully request that the Panel order that the Related Actions, as well as any case that may be subsequently filed asserting related or similar claims, be transferred to the Eastern District of New York or the District of Maryland, or any other district the Panel may deem best equipped to preside over this matter, for consolidated or coordinated pretrial proceedings.

Dated: June 29, 2021

Respectfully submitted,

/s/ John P. Marino

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