

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

IN RE:
HOTEL INDUSTRY SEX
TRAFFICKING LITIGATION

MDL Docket No. 2928

**INTERESTED PARTIES' REPOSE TO PLAINTIFFS' MOTION TO TRANSFER
ACTIONS TO THE SOUTHERN DISTRICT OF OHIO (EASTERN DIVISION)
PURSUANT TO 28 U.S.C. § 1407 FOR CONSOLIDATED PRETRIAL PROCEEDINGS**

Defendant Red Roof Inns, Inc. ("Massachusetts Defendants") respectfully submit this brief in response to Plaintiffs' motion to transfer actions to the Southern District of Ohio (Eastern Division). Massachusetts Defendants also request that this matter be transferred, coordinated or consolidated with the Related Actions in the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1407 and the Rules of Procedure of the Judicial Panel on Multidistrict Litigation ("JPML").

I. INTRODUCTION

The Massachusetts Defendants do not dispute that consolidating the pending cases identified in Plaintiffs' Motion (the "Related Actions"), as well as all related tag-along actions, in a multi-district litigation is appropriate. The Northern District of Georgia, however, is the most appropriate forum for the transfer, coordination and consolidation of the proposed In re: Hotel Sex Trafficking Litigation Multidistrict Litigation ("Sex Trafficking MDL"). The Northern District of Georgia, which is located in Atlanta, Georgia, is easily the most accessible and conveniently located proposed transferee district.

Plaintiffs in the Related Actions currently pending before the Northern District of Georgia have alleged that Atlanta is the "epicenter" of the sex trafficking industry in the United States. It is only logical, therefore, that a district court in Atlanta with the strongest nexus to the alleged epidemic giving rise to these cases be chosen as the transferee district. Further, many of the Related

Actions are currently pending in the Northern District of Georgia, which has a proven history of successfully facilitating MDLs of this size and complexity.

Lastly, no Plaintiffs would be inconvenienced or prejudiced by the transfer of the Related Actions to the Northern District of Georgia, as all Related Actions are currently in the very early stages of litigation. For these reasons, the Northern District of Georgia is the most appropriate choice for the transfer, centralization and consolidation of the Sex Trafficking MDL.

II. FACTUAL BACKGROUND

In response to the alleged sex-trafficking epidemic reportedly plaguing our nation, Plaintiffs in this Sex Trafficking MDL brought claims against many hotel industry Defendants pursuant to the Trafficking Victims Protection Reauthorization Act (“TVPRA”), 18 U.S.C. § 1595(a), as well as similar state statutes and common law. The TVPRA prohibits entities from engaging in any venture it knows, or should know, is involved in sex trafficking. Accordingly, the nexus of Plaintiffs’ claims are that the hotels and those corporations and entities running the hotels were complicit in the “pervasive” sex trafficking in their hotels.

The Plaintiffs in the proposed Sex Trafficking MDL allege that they are each surviving victims of sex trafficking that occurred at multiple different hotel locations. The Plaintiffs further allege that the hotel industry defendants violated the TVPRA by renting rooms to individuals they knew, or should have known, were engaged in sex trafficking. Additionally, Plaintiffs allege that the hotel industry defendants intentionally or negligently engaged in acts or omissions that supported, facilitated, harbored, and otherwise furthered the traffickers’ sale and victimization of the Plaintiffs for commercial sexual exploitation.

Allegations of these sort have been raised against various hotel industry defendants in actions pending in federal courts in Georgia, Ohio, Massachusetts, New York, Virginia, Washington,

Pennsylvania, Oregon, New Hampshire, Michigan, and Texas, and Plaintiff allege in their Motion that there are approximately 1,500 other sex trafficking victims who have retained lawyers to evaluate potential similar claims. (Plaintiffs' Motion, p. 1, n.1). Accordingly, the Massachusetts Defendants do not dispute that consolidation in a multidistrict litigation proceeding will prevent inconsistent rulings and allow efficient, coordinated adjudication. However, for the reasons set forth in this brief, the Northern District of Georgia is the most appropriate forum to house the proposed Sex Trafficking MDL.

III. LEGAL ARGUMENT

A. MASSACHUSETTS DEFENDANTS AGREE THAT THE SEX TRAFFICKING CASES SHOULD BE TRANSFERRED, CENTRALIZED AND CONSOLIDATED BEFORE A SINGLE JUDGE

Massachusetts Defendants support centralization and consolidation of the Sex Trafficking MDL before a single judge for coordinated pretrial proceedings. 28 U.S.C. § 1407 provides that cases before different district courts can be coordinated or consolidated for pretrial proceedings when: (1) those cases involve on or more common questions of fact; (2) when such coordination or consolidation is done for the convenience of the parties and witnesses; and (3) will promote the just and efficient conduct of such actions. Massachusetts Defendants do not dispute that common questions of fact must be addressed in all the Related Actions, including (1) the existence, nature, and extent of the alleged trafficking ventures at the various hotel properties; (2) whether the hotel industry defendants omitted any acts or omissions that would give rise to civil liability under the TVPRA; and (3) the nature and extend of any damages suffered by the Plaintiffs as a result of any wrongdoing by the hotel industry defendants. These questions raised by Plaintiffs, which are common amongst all the Related Actions, support transfer, coordination and centralization of the proposed Sex Trafficking MDL.

Moreover, coordination and consolidation will also be convenient for the parties and witnesses. The Massachusetts Defendants and their hotel industry co-defendants have been sued in multiple district courts for the same allegations involving their properties. Requiring all parties and witnesses to fly to multiple cities across the United States and potentially testify in multiple actions adds unnecessary costs and burden to all of the parties and witnesses.

Finally, coordination and consolidation of the Related Actions before a single judge serves the interests of justice, judicial economy and comity by eliminating duplicative discovery and avoiding inconsistent pre-trial rulings. Therefore, Massachusetts Defendants agree that coordination and consolidation of the Related Actions before a single judge is warranted under 28 U.S.C. § 1407. Massachusetts Defendants assert, however, that Judge should be Judge Ray at the Northern District of Georgia.

B. TRANSFER, COORDINATION AND CONSOLIDATION IN THE NORTHERN DISTRICT OF GEORGIA IS THE MOST APPROPRIATE CHOICE FOR THIS LITIGATION

The Northern District of Georgia is the best choice for the consolidation of the proposed Sex Trafficking litigation. In determining the transferee forum, the JPML balances a number of factors, including: the experience, skill, and caseloads of the available judges; the number of cases pending in the jurisdiction; the convenience of the parties; the location of witnesses and evidence; and the minimization of cost and inconvenience to the parties. *See In re Preferential Drugs Prods. Pricing Antitrust Litig.*, 429 F. Supp. 1027, 1029 (J.P.M.L. 1977); *In re Crematory Litig.*, 206 F. Supp. 1376, 1378 (J.P.M.L. 2002).

1. The Northern District of Georgia is the Most Convenient Forum

Given the accessibility of Atlanta, Georgia from anywhere in the country, the Northern District of Georgia is a more convenient forum for all interested parties than Columbus, Ohio. *See In*

re Air Cargo Shipping Servs Antitrust Litig., 435 F. Supp. 2d 1342, 1344 (J.P.M.L. 2006) (noting that the Eastern District of New York “provides a locale that is...easily accessible” and was favored among numerous parties to the litigation); *In re Long-Distance Tel. Serv. Fed. Excise Tax Refund Lit.*, 469 F. Supp. 2d 1348, 1350 (J.P.M.L. 2006) (choosing the District of District of Columbia as appropriate transferee forum because, in part, “this vicinity provides an easily accessible location” that was favored by the most geographically distant parties).

In selecting a transferee district, Honorable Judge John G. Heyburn II, former Chair of the JPML, once noted that the JPML takes into account the accessibility of the court, particularly air travel. Gregory Hansel, *Extreme Litigation: An Interview with Judge Wm. Terrell Hodges, Chairman of the Judicial Panel on Multidistrict Litigation*, ME. B.J., Winter 2004, at 19 (“[C]ourts in metropolitan areas with busy airports are much more convenient, as judges occasionally have ‘to see the lawyers and look them in the eye.’”); *see also In re Polyester Staple Antitrust Litig.*, 259 F. Supp. 2d 1376 (J.P.M.L. 2003). Hartsfield-Jackson Atlanta International Airport, which is located in Atlanta, is the busiest airport in the United States with direct, frequent and economical flights available from most all major cities in the United States.¹

Plaintiffs argue that Columbus, Ohio is an appropriate forum because its central geographic location. But convenience of access for the parties across the country is the more important consideration. Because Atlanta is a major metropolitan area and a prominent transportation hub, convenience of location heavily favors Atlanta over Columbus.

¹ See <http://www.atl.com/about-atl/>.

2. The Northern District of Georgia Has the Strongest Nexus to the Litigation

The Northern District of Georgia is the most appropriate transferee forum as Atlanta has the strongest nexus to the alleged issue giving rise to this litigation. The district court with the strongest nexus with the litigation is often selected as the transferee court. *See, i.e. In re: Reciprocal of Am. (ROA) Sakes Practices Litig.*, 281 F. Supp. 2d 1356, 1358 (J.P.M.L. 2003). As the Plaintiffs in the Related Actions already pending in the Northern District of Georgia have painstakingly alleged, Atlanta is the “epicenter for human trafficking, and particularly child sex trafficking”.² As alleged, “a study commissioned by the U.S. Department of Justice, Atlanta has one of, if not the, largest illegal sex trafficking economics in the country.”³ The Plaintiffs further cite to Jane Hansen’s “groundbreaking” Atlanta Journal-Constitution series, *Selling Atlanta’s Children*.⁴ This allegation, in and of itself, makes the Northern District of Georgia a more logical transferee forum than the Southern District of Ohio (or anywhere else, for that matter).

² Sally Yates, Remarks at Justice Department Event Marking National Slavery and Human Trafficking Prevention Month, (Jan. 29, 2015), *available at* <https://www.justice.gov/opa/speech/acting-deputy-attorney-general-sally-quillian-yates-delivers-remarks-justice-department> (last visited Dec. 29, 2019).

³ *See* Christian Boone, *Study: Atlanta’s Sex Trade Highly Profitable*, Atlanta Journal-Constitution, (March 13, 2014) <https://www.ajc.com/news/crime--law/study-atlanta-sex-trade-highly-profitable/GiuU5vZdoUo5vdUYSaOBNM/> (last visited Dec. 29, 2019).

⁴ Jane O. Hansen, *Selling Atlanta’s Children: Runaway Girls Lured into the Sex Trade are being Jailed for Crimes while their Adult Pimps go Free*, The Atlanta Journal-Constitution, Jan. 7, 2001; Jane O. Hansen, *The Pimps: Prostitution’s Middle Man Slides in by Court*, the Atlanta Journal-Constitution, Jan. 7, 2001; Jane O. Hansen, *Feds, Police Elsewhere Finding Solutions*, The Atlanta Journal-Constitution, Jan. 8, 2001; Jane O. Hansen, *When Danger is as Close as a Phone*, The Atlanta Journal-Constitution, Jan. 9, 2001; Jane O. Hansen, *Police Plan Child Prostitution Unit*, the Atlanta Journal-Constitution, April 28, 2001; *See also*, Jane O. Hansen, *Selling Atlanta’s Children: What Has and Hasn’t Changed*, Special to CNN, July 18, 2015, <https://www.cnn.com/2015/07/17/us/child-sex-trafficking-update-hansen/index.html> (last visited Dec. 29, 2019).

Thus, if “sex trafficking in Atlanta was an ‘epidemic of tragic proportions’”⁵ facilitated by Atlanta hotels as the Plaintiffs have alleged, then the Northern District of Georgia (which is housed in Atlanta) is indisputably the district court with the strongest nexus to this litigation. Additionally, this creates a logical presumption that a higher number of tag-along cases will be filed in Atlanta rather than Columbus. *See In re Tyson Foods, Inc., Fair Labor Standards Act Litig.*, 502 F. Supp. 2d 1358, 1360 (J.P.M.L. 2007) (noting that pendency of “two potential tag-along actions” was a factor weighing in favor of selection of that district). Therefore, the Related Actions should be transferred, coordinated and consolidated in the Northern District of Georgia.

3. The Cases in the Northern District of Georgia are Nearly as Advanced as Those in the Southern District of Ohio

While it is true that the Related Actions currently pending in the Southern District of Ohio were filed first (by only a few months), this should not be determinative in the selection of the transferee district. Notably, none of the Related Actions are in an advanced stage as compared to any other. “This litigation as a whole is in its relatively early stages, and any number of the suggested districts could serve ably as the transferee district for this litigation[.]” *In re: Ford Fusion & C-Max Econ. Litig.*, 949 F. Supp. 2d 1368, 1369 (J.P.M.L. 2013) (choosing to centralize the litigation in the Southern District of New York because that district “offers a readily accessible and convenient transferee forum for this litigation.”).

The Plaintiffs assert that the case *M.A. v. Wyndham Hotels & Resorts, et al.*, Case No. 2:19-cv-849 is more advanced than other pending action because Chief Judge Marbley for the Southern District of Ohio has ruled on motions to dismiss, held a pretrial conference, and issued pretrial scheduling order. However, any claim that this case “has made substantial progress” compared to

⁵ Nina Hickson, *An Epidemic of Tragic Proportions*, Atlanta Journal-Constitution, June 11, 2000.

other pending cases is incorrect. Judge Ray has also held a pre-trial conference, entered a scheduling order, and ruled on competing motions for protective orders in the four cases pending before him in the Northern District of Georgia. The Ohio cases and the Georgia cases are all in the relatively early stages of litigation, and any slight “lead” the Ohio cases may have is not significant enough to be outcome determinative.

4. Many Cases Are Filed in the Northern District of Georgia

The JPML considers the number of cases filed in each proposed district when selecting a transferee district. *See In re: Nat’l Arbitration Forum Antitrust Litig.*, 682 F. Supp. 2d 1343, 1346 (J.P.M.L. 2010). Here, five of the Related Actions are currently pending before the Northern District of Georgia, four of which have been transferred to Judge Ray.⁶ The Related Actions currently pending in the Northern District of Georgia include:

- *Jane Doe 1 v. Red Roof Inns, Inc., et al.*, Case No. 1:19-cv-03840
- *Jane Doe 2 v. Red Roof Inns, Inc., et al.*, Case No. 1:19-cv-03841
- *Jane Doe 3 v. Red Roof Inns, Inc., et al.*, Case No. 1:19-cv-03843
- *Jane Doe 4 v. Red Roof Inns, Inc., et al.*, Case No. 1:19-cv-03845
- *H.M. v. Wyndham Hotels & Resorts, Inc., et al.*, Case No. 1:19-cv-04859

Notably, Chief Judge Marbley in the Southern District of Ohio only oversees a single case more than Judge Ray in the Northern District of Georgia. Thus, Judge Marbley does not have any significant advantage over Judge Ray in terms of the quantity of Related Actions. In any event, “[w]hile the number of actions pending in a potential transferee district is relevant to the selection of

⁶ In the Schedule of Actions attached to Plaintiffs’ Motion to Transfer, Plaintiffs failed to note that four of the Jane Doe actions filed in the Northern District of Georgia have been transferred to Judge Ray. The fifth case filed by Plaintiff H.M. in the Northern District of Georgia is relatively new, and it is unknown whether that case will also be transferred to Judge Ray.

the most appropriate district, it is certainly not controlling especially where, as here, the actions are nearly equally divided between two districts.” *In re: Mid-Air Collusion, Fairland, Ind.*, 309 F. Supp. 621, 622 (J.P.M.L. 1970). Here, because the Northern District of Georgia has the stronger nexus to this Sex Trafficking litigation and is more convenient than the Southern District of Ohio, the Northern District of Georgia is the more appropriate transferee court.

5. The Jurists in the Northern District of Georgia are Highly Experienced in Supervising Complex Multidistrict Litigation of this Size and Scope

The judges in the Northern District of Georgia are well-qualified, highly skilled and very experienced in handling cases of this size and scope. The experience and skill of the jurists in each district are considered by the JPML in determining the appropriate transferee court. *See In re: Chinese-Manufactured Drywall Prods. Liab. Litig.*, 626 F. Supp. 2d 1346, 1347 (J.P.M.L. 2009); *In re: Health Management Associates, Inc. Qui Tam Litig.*, 11 F. Supp. 3d 1346, 1349 (J.P.M.L. 2014); *In re: Biomet M2a Magnum Hip Implant Products Liab. Litig.*, 896 F. Supp. 2d 1339, 1340-41 (J.P.M.L. 2012). And while Massachusetts Defendants do not dispute that Chief Judge Marbley is an experienced Judge, he has not previously handled an MDL. Thus, this factor does not necessarily favor selection of Chief Judge Marbley or the Southern District of Ohio as the transferee forum.

Notably, however, the Northern District of Georgia is currently overseeing and has successfully overseen many complex and varying MDLs in the past, including but not limited to:

- *In re: Ethicon Physiomesb Flexible Composite Hernia Mesh Products Liab. Litig.*, Civil Action No. 1:17-md-02782-RWS
- *In re: AndroGel Antitrust Litig. (No. II)*, Civil Action No. 1:09-MD-2084-TWT
- *In re: Equifax, Inc., Customer Data Security Breach Litig.*, Civil Action No. 1:17-md-2800-TWT

- *In re: Atlanta Roofing Corp. Chalet Shingle Products Liab. Litig.*, Civil Action No. 1:13-md-2495-TWT
- *In re: Wright Medical Technology, Inc. Conserve Hip Implant Products Liab. Litig.*, Civil Action No. 1:12-MD-2329-WSD
- *In re: Camp Lejeune, North Carolina Water Contamination Litig.*, Civil Action No. 1:11-MD-2218-TWT
- *In re: Delta/Airtran Baggage Fee Antitrust Litig.*, Civil Action No. 1:09-md-2089-TCB
- *In re: ConAgra Peanut Butter Products Liab. Litig.*, Civil Action No. 1:07-MD-1845-TWT

Thus, the jurists in the Northern District of Georgia are highly experienced, well-qualified, and have a proven track record of successfully resolving cases of this size, scope and complexity. This only bolsters the fact that the Northern District of Georgia is the most appropriate venue to house the Sex Trafficking MDL.

IV. CONCLUSION

For the reasons set forth above, this Panel should transfer, coordinate and consolidate all of the Related Actions in the Northern District of Georgia.

Respectfully submitted this 3rd day of January, 2020.

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N RE:
HOTEL INDUSTRY SEX
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PROOF OF SERVICE

In compliance with Rule 4.1(a) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, I hereby certify that, on January 3, 2020, a true and correct copy of the foregoing Response to Plaintiffs' Motion to Transfer Actions to the Southern District of Ohio (Eastern Division) Pursuant to 28 U.S.C. § 1407 For Consolidated Pretrial Proceedings was filed with the Panel via CM/ECF system, which provides electronic service notifications to all counsel of record registered as CM/ECF users.

Date: January 3, 2020

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CERTIFICATE OF SERVICE

I, Kenneth Walton, hereby certify that on January 3, 2020, a true and correct copy of the within document was served on all parties via the Electronic Case Filing System.

/s/ Kenneth Walton

Kenneth Walton