BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: HOTEL INDUSTRY SEX TRAFFICKING LITIGATION II **MDL No. 3104**

RESPONSE OF RED ROOF DEFENDANTS IN OPPOSITION TO PLAINTIFFS' MOTION FOR TRANSFER OF ACTIONS TO THE SOUTHERN DISTRICT OF OHIO (EASTERN DIVISION) PURSUANT TO 28 U.S.C. § 1407 FOR CONSOLIDATED PRETRIAL PROCEEDINGS

In accordance with Rule 6.1(c) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation (the "Panel" or "J.P.M.L."), Defendants Red Roof Inns, Inc., Red Roof Franchising, LLC, RRF Holding Company, LLC, and RRI West Management, LLC (collectively, "Red Roof" or the "Red Roof Defendants") oppose the Motion for Transfer of Actions to the Southern District of Ohio (Eastern Division) Pursuant to 28 U.S.C. § 1407 for Consolidated Pretrial Proceedings (the "Motion" or "Motion for Transfer") (ECF No. 1-1).

I. INTRODUCTION

This is the second time a motion for transfer involving the same claims has been brought before the J.P.M.L. The claims involve an alleged violation of the Trafficking Victims Protection Reauthorization Act ("TVPRA"),[1] attempting to hold hotels civilly liable for knowingly benefitting from victims' alleged sexual exploitation on their premises. On February 5, 2020, the Panel held that these types of cases are not suitable for centralization, recognizing that the underlying claims necessarily turn on highly individualized questions of facts—*e.g.*, they involve different hotels, different alleged sex trafficking ventures, different hotel brands, different owners

[1] The TVPRA provides a civil remedy for victims of trafficking against both their traffickers, as well as "whoever knowingly benefits . . . from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter." 18 U.S.C. § 1595(a).

and employees, different geographic locales, different witnesses, different indicia of sex trafficking, and different time periods. *In Re: Hotel Indus. Sex Trafficking Litig.*, 433 F. Supp. 3d 1353, 1355-56 (J.P.M.L. 2020).

As this litigation has progressed over the past four years, the Panel's original ruling has proved prophetic. During this time, a number of cases have progressed through fact discovery and summary judgment, and still others have reached resolution after final pretrial motion practice was completed. In each of these cases, numerous fact-specific questions have been raised which required individualized resolution just as this Panel predicted. And, tellingly, most federal judges who have been overseeing these cases for years agree: these cases are not properly suited for centralization into an MDL. In addition, the Panel's original concerns regarding centralization are even more pronounced now as the procedural postures of the cases plaintiffs seek to coordinate vary widely. While some of the cases are still at the pleading stage, others have progressed to summary judgment, and still others are in the midst of concluding fact and expert discovery.

As such, centralization of these actions would serve only to undermine the goals of coordination under Section 1407. Centralization of these cases would slow and complicate the litigation, exacerbate judicial inefficiencies, inconvenience witnesses, and increase expenditures of the parties.

For these reasons and those more fully explained below, centralization of these actions under Section 1407 is inappropriate and the Motion for Transfer should be denied.

II. ARGUMENT

A. The Motion for Transfer is premature as informal coordination efforts have not been exhausted.

As an initial matter, centralization would be premature as other informal coordination options have not been fully explored or utilized by the Movants. This is especially true, given that

the Panel has repeatedly instructed: "[C]entralization under Section 1407 should be the last solution after considered review of all other options." *In re: Best Buy Co., Cal. Song-Beverly Credit Card Act Litig.*, 804 F. Supp. 2d 1376, 1378 (J.P.M.L. 2011) (denying transfer in preference of pursuing other coordination options); *see also In re Bank of Am. Fraudulent Acct. Litig.*, 2023 WL 8538726, at *2 (J.P.M.L. Dec. 6, 2023) (same); *In re Nelnet Servicing, LLC, Customer Data Sec. Breach Litig.*, 648 F. Supp. 3d 1377, 1377-78 (J.P.M.L. 2022) (same); *In re U.S. Postal Servs. Next Generation Delivery Vehicle Acquisitions Program Rec. of Decision Litig.*, 640 F. Supp. 3d 1410, 1412 (J.P.M.L. 2022) (same). "Those options include cooperation and coordination among the parties and the involved courts to avoid duplicative discovery and inconsistent pretrial rulings." *In re Nat'l Grid Tax Gross-Up Adder Litig.*, 2023 WL 2876091, at *1 (J.P.M.L. Apr. 10, 2023) (citing *In re Eli Lilly & Co. (Cephalexin Monohydrate) Patent Litig.*, 446 F. Supp. 242, 244 (J.P.M.L. 1978); Manual for Complex Litigation, Fourth, § 20.14 (2004)); *see also In re Bank of Am. Fraudulent Acct. Litig.*, 2023 WL 8538726, at *2 (enumerating additional options to transfer under 28 U.S.C. §1407) (citing *In re Gerber Probiotic Prods. Mktg. & Sales Practices Litig.*, 899 F. Supp. 2d 1378, 1379-80 (J.P.M.L. 2012)).

Movants' Motion for Transfer therefore flies in the face of the Panel's well-settled guidance. While Movants focus on Judge Marbley "direct[ing]" them to file the instant Motion (ECF No. 1-1, Mot. at 2), this assertion is overstated. Rather, Judge Marbley ordered Movants to circulate a draft Motion and then envisioned after that circulation and response thereto, the parties would meet and confer about possible alternatives or informal cooperation to streamline the cases before him prior to filing a motion with the Panel. Judge Marbley clarified this intent at a subsequent hearing:

> THE COURT: . . . [D]id counsel meet and confer about potential case management options, including MDL litigation or multi-

> district litigation, I should say, either on an industry-wide or defendant-by-defendant basis? Do you know, Mr. Babin, whether that happened?
>
> MR. BABIN: I know that we talked to various counsel with respect to whether they would support an MDL. I know there has ***not*** been a call with all the faces I see here with respect to meeting and conferring about filing for the MDL.

Ex. A, Excerpts from *In re: Hotel TVPRA Litig.*, Nos. 2:21-cv-4933, et al. (S.D. Ohio) 1/23/24 Hr'g Tr. at 12:2-12 (emphasis added); *see also id.* at 13:4-7, 18:14-18. Movants did not initiate a meet and confer and filed the request for an MDL earlier than Judge Marbley had ordered. Given the premature filing, the Parties did not have a chance to discuss informal procedures and cooperation before filing.

Moreover, the Red Roof Defendants have shown that informal cooperation during discovery is possible and functional. To be sure, the Red Roof Defendants have engaged in informal cooperation to streamline cases pending across the country to the extent possible. For example, the Red Roof Defendants have agreed to adopt similar (if not identical) protective orders across cases involving the same plaintiff's counsel. *E.g.*, *compare J.M. v. Choice Hotels Int'l, Inc.*, No. 2:22-cv-0672 (E.D. Cal.) (ECF No. 90), *with S.C. v. Wyndham Hotels & Resorts, Inc.*, No. 1:23-cv-00871 (N.D. Ohio) (ECF No. 123). Similarly, the Red Roof Defendants have agreed to adopt discovery across cases pending in Georgia federal court and have entered into an agreement with plaintiffs' counsel in the Ohio cases on the exchange of initial disclosures across cases. The Red Roof Defendants have also agreed to produce documents in a case pending in California following an order issued in a Northern District of Ohio case so that issue need not be re-litigated. In fact, each time a plaintiff's counsel has contacted counsel for the Red Roof Defendants regarding coordinated discovery, the Red Roof Defendants have entered good faith negotiations

to reach a resolution. To that end, the Red Roof Defendants agree to make similar strides as these cases proceed.

Additionally, because many of these cases involve similar—if not the same—plaintiffs' firms, it is the Red Roof Defendants' position that informal cooperation between the parties would be the most efficient avenue by which to litigate these cases. This is precisely why the Panel routinely denies centralization when informal cooperation is feasible. *See, e.g.*, *In re: Louisiana-Pac. Corp. Trimboard Siding Mktg., Sales Pracs. & Prod. Liab. Litig.*, 867 F. Supp. 2d 1346, 1347 (J.P.M.L. 2012) (denying centralization in favor of informal cooperation in light of the fact that same counsel involved in many of the cases); *In re Fresh Dairy Prods. Antitrust Litig.*, 856 F. Supp. 2d 1344, 1345 (J.P.M.L. 2012) (denying motion for transfer to centralized proceedings in part because the "[p]laintiffs in the consolidated actions share counsel, and at least some defendants . . . [were] represented by the same law firms"). And the Panel should again deny centralization under Section 1407 here.

In short, because informal cooperation has not been meaningfully pursued, and is feasible, in these cases, the Motion for Transfer is premature and should be denied.

B. Federal judges across the country presiding over these cases generally agree that centralization is inappropriate.

After filing the Motion to Transfer, Movants attempted to stay all cases against the Red Roof Defendants pending transfer to an MDL. In two instances so far, a stay was summarily denied and the judges presiding over those cases expressed significant concerns about the impropriety of centralization.[2]

[2] Several of the remaining motions to stay were resolved between meet and confer efforts of counsel, and a few are still pending before Judge Marbley.

In *S.C. v. Wyndham Hotels & Resorts, Inc.*, No. 1:23-cv-00871, 2024 WL 308298, at *1-2 (N.D. Ohio Jan. 27, 2024), Judge James S. Gwin, in the Northern District of Ohio, when ruling on Plaintiff's motion to stay, provided a thoughtful and pointed analysis on the factual dissimilarities he sees across these cases that make them ill-suited for centralization in an MDL. To begin his analysis, Judge Gwin examined the facts specific to Plaintiff S.C.'s case, noting:

> [C]entralization seems unlikely. Under 28 U.S.C. § 1407(a), the JPML centralizes actions only if those actions involve "one or more common questions of fact," and if centralization would serve "the convenience of parties and witnesses" as well as "promote the just and efficient conduct of such actions."
>
> As S.C.'s own case demonstrates, this case presents only few common factual questions with other sex trafficking cases. According to S.C.'s complaint, she was trafficked at four different hotels: a Days Inn, a Comfort Inn, a Crowne Plaza, and a Red Roof Inn. Two Defendants (Wyndham Hotels and Resorts, Inc. and Days Inns Worldwide, Inc.) are associated with the Days Inn. One Defendant (Choice Hotels International, Inc.) is associated with the Comfort Inn. Three Defendants (Six Continents Hotels Inc., Holiday Hospitality Franchising, LLC, and Crowne Plaza LLC) are associated with the Crowne Plaza. The remaining two Defendants (Red Roof Inns, Inc. and Red Roof Franchising, LLC) are associated with the Red Roof Inn.
>
> There are no allegations that these four groups of Defendants ever cooperated with each other or even communicated about S.C.'s alleged trafficking. Even within the same case, the only common factual connection between the four sets of Defendants is Plaintiff and her traffickers.
>
> Nothing suggests that S.C.'s traffickers are involved in any of the multitude of sex trafficking cases filed around the country.

Id. at *1-2.

Judge Gwin also noted that centralization is inappropriate not just for Plaintiff S.C.'s individual case, but for all TVPRA cases pending against hotel defendants generally. He explained:

> Zooming out to a broader perspective only emphasizes the lack of common factual questions. The hotel sex trafficking lawsuits that

> Plaintiff proposes to centralize largely involve different hotels in different parts of the country and different plaintiffs preyed on by different sex trafficking ventures. In fact, the lawsuits proposed to be centralized involve fifty different defendants, including hotel parent companies, franchisors, franchisees, and other related corporate entities. And there are over fifty different plaintiffs involved.
>
> Viewing Plaintiff's centralization request through the lens of a TVPRA claim further reinforces the lack of commonality. To make a TVPRA claim, a plaintiff must show that a defendant (1) knowingly benefited from (2) participating in a venture that (3) the defendant knew or should have known was engaged in sex trafficking. Each of these three elements is specific to the particular plaintiff and sex trafficking venture involved in a case.
>
> Although there might be common factual questions about how much a given hotel group generally knows about sex trafficking problems in their hotels, such general knowledge is only minimally relevant to TVPRA claims. General knowledge can provide background context on whether a defendant should have recognized signs of sex trafficking, but ultimately it will be individual signs of sex trafficking that matter the most.
>
> In any case, even general knowledge will only be common between defendants in the same hotel group—the defendants in the proposed multidistrict litigation represent many different hotel groups.
>
> Because individualized fact issues will predominate, centralization in these hotel sex trafficking cases would not promote judicial efficiency. Due to the many individualized fact issues, very little discovery will overlap between the different cases. Nor will there be many issues that a transferee court can resolve across multiple cases with a single order.

Id. at *2.

Similarly, in her order denying a stay, Judge Kimberly J. Mueller, Chief Judge of the Eastern District of California, referenced the impropriety of transferring the case pending in her court given the procedural posture of the case:

> [T]his court has presided over this case for nearly two years, expending judicial resources on pretrial procedures, supervision of the Rule 16 schedule and motion practice. It has familiarized itself

> with the underlying factual allegations and procedural history of this case and issued orders on two motions to dismiss. It is preparing to resolve defendant's pending motion for leave to file a third-party complaint. And as noted, fact discovery is about to close and expert discovery open, with dispositive motions due in less than four months. The time during which the court's judicial resources could have been conserved—the time Congress identified in the MDL statute as appropriate for designation of an MDL court—has mostly passed.

Ex. B, *J.M. v. Choice Hotels Int'l, Inc.*, No. 2:22-cv-0672 (E.D. Cal.), Order at p. 7 (ECF No. 106).[3]

While these decisions do not bind the Panel, the Red Roof Defendants offer these insightful analyses from federal judges with firsthand experience presiding over these cases for the Panel's consideration. For each of these reasons, the Motion to Transfer should be denied.

C. Circumstances have not changed since the Panel's original ruling, and if anything, factors weigh more against instituting an MDL now.

Even without these developments and federal judges voicing concerns about centralization, the reasoning underpinning the Panel's decision denying the original motion for transfer of these cases remains sound today. As the Panel made clear in its original decision denying transfer, the claims at issue in this litigation do not share common questions of fact and are therefore not suited for centralization under 28 U.S.C. § 1407:

> The vast majority of actions involve different hotels[,] . . . . different alleged sex trafficking ventures, different hotel brands, different owners and employees, different geographic locales, different witnesses, different indicia of sex trafficking, and different time periods. Thus, unique issues concerning each plaintiff's sex

[3] During the hearing on Plaintiff J.M.'s motion to stay, Judge Mueller voiced additional concerns about transferring this case to an MDL. Ex. C, *J.M. v. Choice Hotels Int'l, Inc.*, No. 2:22-cv-0672 (E.D. Cal.) 1/22/24 Hr'g Tr. at 20:6-13, 24:4-10. ("We have a duty to the geography that we serve as a federal trial court. And these cases matter. This case matters to the Central Valley of California, to the Eastern District of California. . . . I just wondered if there isn't a strong argument for [carving] this case out for the motion to transfer. . . . Single plaintiff, single hotel, Central Valley of California, a long way from the Southern District of Ohio.").

> trafficking allegations predominate in these actions. Indeed, there is no common or predominant defendant across all actions, further indicating a lack of common questions of fact.

In Re: Hotel Indus. Sex Trafficking Litig., 433 F. Supp. 3d 1353, 1355-56 (J.P.M.L. 2020).

None of these factors have changed since the Panel's ruling over four years ago. If anything, the passage of time and the workup to these cases to date have validated the Panel's initial concerns. Indeed, as the Panel correctly predicted in 2020, these cases have required extensive individual case-specific discovery, which the Red Roof Defendants do not see being aided in any way by MDL consolidation.

To illustrate this, a comparison of two cases that have—or have nearly—completed discovery demonstrates how unique these cases are:

- *Jane Does 1-4 v. Red Roof Inns, Inc.*, No. 1:21-cv-04278 (N.D. Ga.) (status: dismissed after final pretrial motion practice was completed): This case involved four plaintiffs who alleged they were trafficked at two Red Roof Inn branded hotels in Georgia. The plaintiffs sued various Red Roof Inn entities, as well as the franchisor who owned and controlled one of the two properties. The plaintiffs all alleged being trafficked at numerous other hotels, up to 13 different properties in Georgia and other southern states, but the Red Roof Inn defendants were the only defendants in this case. The plaintiffs all had different alleged trafficking periods between 2010 and 2017 with sometimes different and sometimes overlapping traffickers that were local to Georgia. There were fact witnesses that included security guards hired to monitor the property, hotel employees, alleged traffickers, and witnesses that were all local to Georgia. In plaintiffs' final witness list in their Pretrial Order, the plaintiffs identified over 55 witnesses for trial, many of whom were deposed in the case. Over 45 of those witnesses included the plaintiffs, the plaintiffs' experts, women who were allegedly trafficked with them at the same properties, property-specific employees (housekeepers, general managers, front desk employees, regional employees responsible for the property), franchisee owners and employees, property-specific security guards, the plaintiffs' family members, local ministries and sex trafficking advocacy agencies specific to Georgia, and local police officers.

- *S.C. v. Wyndham Hotels & Resorts, Inc.*, No. 1:23-cv-00871 (N.D. Ohio) (status: pending, fact discovery almost complete, trial May 2024): The *S.C.* case involves one plaintiff who alleges she was trafficked at four different hotels in Northeast Ohio between 2009 and 2019. She sued four different hotel brands, but no franchisees. S.C.'s alleged traffickers are local to Northeast Ohio, and there is no

> evidence that her traffickers had any connection with any other traffickers or outside Northeast Ohio generally. S.C. and her family live in Northeast Ohio and will be deposed in Northeast Ohio. Plaintiff also has a criminal history stemming out of Northeast Ohio, and various local law enforcement officers who encountered S.C. and the specific hotel locations at issue in this case will be deposed. Depositions of hotel staff will include local employees, including general managers and other hotel staff that reside in Northeast Ohio.

This comparison highlights only two cases of the over 50 cases at issue in this litigation. Examining more of these cases would only serve to further demarcate the stark differences at issue in each of these cases, as the Panel astutely enumerated in its original order denying consolidation. Very few of the plaintiffs' allegations in these cases occurred at the same hotel property, or even in the same state, let alone the same city, and sometimes even involve multiple hotel chains. The number of witnesses, employees at the property(ies), alleged traffickers, alleged "johns," and examinations of the property(ies) increases with each new case filed. As such, discovery in these cases would not be facilitated or streamlined were they coordinated into an MDL.

These cases are even more inappropriate for centralization now given how mature the litigation is. These cases are at extremely different procedural postures; while many are still at the pleading stage or early discovery, numerous others have completed or are nearing completion of fact discovery. Still others have summary judgment motions pending and are trial-ready. Centralization for pretrial purposes therefore would not advance judicial economy and would serve only to complicate court proceedings and slow the progress of these cases.

Another critical aspect that makes these cases ill-suited for consolidation in an MDL, which was not directly mentioned in the Panel's original ruling, is the need to interplead or file third-party complaints against hotel franchisee owners, which operate many of the properties that are subject of the plaintiffs' allegations or have indemnity agreements with the branded hotels, or security companies employed to monitor the hotel premises. *See generally In Re: Hotel Indus. Sex*

Trafficking Litig., 433 F. Supp. 3d 1353. While some cases associated in this proceeding involve affiliate franchisee-owned Red Roof properties, many cases involve third party franchisee-run Red Roof locations. And still many others involve third-party security companies hired by the hotel to monitor the safety of their property. Yet virtually all of plaintiffs' complaints fail to name the franchisee or security company and the Red Roof Defendants have had to file motions to bring third-party complaints to bring them into various cases. Thus, a consolidated proceeding would necessarily entail myriad defendants—exponentially more than have already appeared in this litigation to date.[4]

Additionally, there has been no marked increase in cases—or involvement of different counsel—over the past four years. The original motion to transfer involved nearly 40 cases. *See* Associated Case List for Ex. D, Associated Case List for MDL No. 2928, *In Re: Hotel Industry Sex Trafficking Litig*. The instant Motion relates to 53 cases. Despite Movants making reference to 1,700 plaintiffs (*see* ECF No. 1-1, Mot. at 8), the number of cases has only increased at a rate of less than 4 per year, which is not significant. There has similarly been no marked increase in state-court proceedings. Moreover, most of the new cases have been filed by the same plaintiffs' firm in the same district and therefore informal cooperation in those cases should be easily

[4] Notably, not even counting the dozens, if not hundreds, of franchisees and hotel security companies that would need to be interpleaded, this litigation would already involve at least nine branded hotel chain defendants. *See infra* fn. 8 (discussing the number of potential individual brands involved in this litigation). This is yet another factor that has not changed, and is also a factor that weighs against instituting an MDL. *See, e.g.*, *In re: Cordarone (Amiodarone Hydrochloride) Mktg., Sales Pracs. & Prod. Liab. Litig.*, 190 F. Supp. 3d 1346, 1347 (J.P.M.L. 2016) ("Given the different defendants sued in these actions, centralization appears unlikely to serve the convenience of a substantial number of parties and their witnesses." (internal footnote omitted)); *In re: Credit Card Payment Prot. Plan Mktg. & Sales Pracs. Litig.*, 753 F. Supp. 2d 1375, 1376 (J.P.M.L. 2010) (denying centralization of litigation involving "different defendants but also different products, marketing, cardholder agreements, and customer claim administration").

achievable. *See supra* Section II.A (citing cases and discussing informal cooperation amongst similar or same counsel).

Considering the overwhelming evidence and guidance from federal judges presiding over these cases, which show these cases are still not suitable for centralization, it is unsurprising that the decisions Movants cite are entirely inapposite to the facts of this litigation. ECF No. 1-1, Mot. at 4-5 (citing *In re Covidien Hernia Mesh Prods. Liab. Litig.*, 607 F. Supp. 3d 1356 (J.P.M.L. 2022) and *In re Plavix Mktg., Sales Practice & Prods. Liab. Litig.*, 923 F. Supp. 2d 1376 (J.P.M.L. 2013)). Specifically, while they cite two decisions where a motion for reconsideration was granted, the Panel's decisions to grant centralization in those cases were based largely on factors not at all present here. *Covidien Hernia Mesh*, 607 F. Supp. 3d at 1357-58 (granting centralization because of "the significantly larger number of actions, the credible prospect of additional actions, the increase in number of counsel (though small), the concomitant increase in burden on party and judicial resources, and the increased need for federal-state coordination—coupled with significant plaintiff support for centralization"); *Plavix*, 923 F. Supp. 2d at 1378-79 ("[A]t the time of our decision in *Plavix I*, we were aware of related state court litigation in only two states—New Jersey and New York. That number has at least doubled since then. The Miller Firm, which represents plaintiffs in a number of the constituent actions in this docket, states that it represents plaintiffs in 'hundreds' of cases filed in California and Illinois, and defendants assert that the total number of state cases exceeds 2,000. This dramatic increase in the number of related state court cases suggests that the number of related federal actions will increase as well."). Put simply, the decisions on which Movants rely to support their renewed motion do nothing to advance their position or somehow demonstrate that consolidation is now appropriate.

As the Panel has made clear, reconsideration is granted "only rarely . . . where a significant change in circumstances has occurred." *See Plavix*, 923 F. Supp. 2d at 1378. The changed circumstances in *Covidien Hernia Mesh* and *Plavix* are not present here. In fact, the circumstances here have not changed at all, and the Panel should deny reconsideration as it routinely has in similar situations. *In re: Wells Fargo Bank, N.A., Mortg. Corp. Force-Placed Hazard Ins. Litig.*, 959 F. Supp. 2d 1363, 1364 (J.P.M.L. 2013) (denying reconsideration of motion to transfer because "we do not find any new circumstances that warrant reconsideration" and noting that "the pending actions involve different originating lenders, mortgage agreements with materially different terms concerning force-placed insurance, and differing disclosures to borrowers at the time the force-placed insurance policies were placed. . . . [and] individualized discovery and legal issues still will be substantial"); *In re Cymbalta (Duloxetine) Prod. Liab. Litig. (No. II)*, 138 F. Supp. 3d 1375, 1376 (J.P.M.L. 2015) (denying reconsideration and noting, "All the factors that weighed against centralization then still are present today. These 41 cases are at substantially different procedural stages.").

For the reasons enumerated above and those identified by the Panel in its original ruling in 2020, reconsideration should not be granted here. This litigation is not the "rare" instance contemplated by *Plavix* that warrants reconsideration of the Panel's original denial of centralization.

D. Movants' arguments offer nothing to overcome the undeniable truth that these cases are not suitable for centralization.

In their Motion to Transfer, Movants appear to make three arguments for reconsideration. ECF No. 1-1, Mot. at 2-4.[5] Each fails.

[5] While Movants enumerate four reasons in their brief, the second and third regarding parent-hotel knowledge and discovery are interrelated and can be disposed of as one.

First, Movants argue that centralization would promote judicial economy and serve the convenience of the parties. *Id.* at 2-3. It would not. As explained above, these cases have been pending for years and are at varying procedural stages; centralization would therefore necessarily waste the judicial resources already expended in these cases, complicate court proceedings, and slow the progress of these cases. *See supra* at pp. 7-8 (discussing Judge Mueller's concerns about transfer given the extensive resources and time she has invested in a case that has been pending before her court for almost two years) & p. 10 (discussing inefficiencies of centralization given how mature the litigation is and how judicial economy would therefore not be advanced).

Second, Movants attempt to argue that there are common issues of fact based on alleged knowledge of human trafficking coming from corporate parent hotels. ECF No. 1-1, Mot. at 3-4. This argument is entirely backwards. The question in adjudicating TVPRA claims is not what the parent corporations knew or did not know about human trafficking generally; rather, it turns on whether there is knowledge of plaintiff's individual alleged trafficking specifically. Indeed, federal judges have already considered Movants' argument and rejected it. *See, e.g.*, *S.C.*, 2024 WL 308298, at *2 ("Although there might be common factual questions about how much a given hotel group generally knows about sex trafficking problems in their hotels, such ***general knowledge is only minimally relevant to TVPRA claims. General knowledge can provide background context on whether a defendant should have recognized signs of sex trafficking, but ultimately it will be individual signs of sex trafficking that matter the most.***" (emphasis added)). Therefore, there is no risk of duplicative discovery if the cases are not centralized as case-specific discovery will be required in each case given that knowledge necessarily would come from the employees working at the individual location, etc.

Lastly, Movants argue that, "without centralization, we know now that survivors cannot anticipate the rigors of enforcing their civil rights under the TVPRA." ECF No. 1-1, Mot. at 4. This argument is nonsensical. Not knowing "the rigors of enforcing [plaintiffs'] rights" is not a basis to seek centralization under Section 1407. Not knowing how judges will decide issues is naturally part of litigation.[6]

Movants' first and last arguments merely demonstrate that they want to have their cake and eat it, too. On the one hand (their first argument), they are seeking centralization to promote judicial efficiency. On the other hand (their last argument, which has been clarified by statements Movants have made in open court), they are willing to have cases sit in an MDL for years before they are ever tried and consider that to be "a small price to pay for [their cases] to be combined with others" where they know "their litigation strategy" (*i.e.*, what the litigation will require of them) and that, in an "MDL, they have more support and ability to want to come forward." Ex. C, *J.M. v. Choice Hotels Int'l, Inc.*, No. 2:22-cv-0672 (E.D. Cal.) 1/22/24 Hr'g Tr. at 7:2-6, 20:25-21:12; *see also* ECF No. 1-1, Mot. at 4 (arguing that, by being able to "anticipate" what litigation will require of their clients, plaintiffs will be "empowered with the ability to make more informed decisions as to whether seeking civil remedies is right for them"). This is precisely the perverse result that led Judge Clay D. Land, who presided over the Mentor Obtape Transobturator Sling

[6] To the extent Movants attempt to link this argument to not being able to receive adequate protection for their clients outside of a centralized proceeding, that argument too fails. Movants raised a similar argument and had it summarily rejected in the *J.M.* case. Specifically, the court noted that plaintiff had been afforded identity protection she requested and that counsel had not sought any other protections despite this case having been pending for nearly two years. Ex. C, *J.M. v. Choice Hotels Int'l, Inc.*, No. 2:22-cv-0672 (E.D. Cal.) 1/22/24 Hr'g Tr. at 18:18-19:5 ("Identity [protection] not at issue here; right? Identity protected. . . . I haven't heard any [other] need for clarification of expectations [of discovery matters]. . . . [T]his Court has not heard there's anything not afforded to J.M. in terms of protecting her from the rigors of litigation, while at the same time recognizing it's a case she brought."). Put another way, they have received all the protections asked for to date without centralization. This argument therefore is misleading.

MDL, to caution against instituting MDLs and is yet another reason why this litigation should not be centralized:

> Although one of the purposes of MDL consolidation is to allow for more efficient pretrial management of cases with common issues of law and fact, the evolution of the MDL process toward providing an alternative dispute resolution forum for global settlements has produced incentives for the filing of cases that otherwise would not be filed if they had to stand on their own merit as a stand-alone action. . . . This phenomenon produces the perverse result that an MDL, which was established in part to manage cases more efficiently to achieve judicial economy, becomes populated with many non-meritorious cases that must nevertheless be managed by the transferee judge—cases that likely never would have entered the federal court system without the MDL.

In re Mentor Corp. Obtape Transobturator Sling Prod. Liab. Litig., No. 4:08-MD-2004, 2016 WL 4705807, at *1. Those incentives Judge Land warns of are even greater here given the sensitive nature of the allegations which plaintiffs' counsel have already seized upon to avoid necessary fact discovery, including such routine tasks as deposing their clients, all under the guise of protecting them from retraumatization, even though they have chosen to bring these allegations.[7]

At bottom, Movants altogether fail to demonstrate that these cases are appropriate for centralization under Section 1407. This is because, as explained above (*see supra* Sections II.A-C), they are not.

E. For these, and other reasons, a brand-specific MDL is also inappropriate.

In addition, the Red Roof Defendants anticipate that certain Movants, or Interested Parties, may argue that, while complete centralization (*i.e.*, centralization of all TVPRA claims involving

[7] For example, a court order was required in the *S.C.* case to have the plaintiff's deposition go forward on a date certain after plaintiff's counsel's numerous attempts to postpone the deposition. *See S.C.*, No. 1:23-cv-00871 (N.D. Ohio) (unnumbered docket entry between ECF Nos. 172 & 173: "Order [non-document] entered by Judge James S. Gwin on 1/10/24. The Court orders parties to schedule the deposition of plaintiff for January 22, 23 or 24. (T,A) (Entered: 01/10/2024)").

all hotel defendants) is unwarranted, brand-specific centralization would be. This assertion is meritless and will not promote judicial efficiency—but the opposite. It would result in conflicting decisions, differing treatment of claimants, and potential infringement of the hotel defendants' rights under the common law and TVPRA.

First, such consolidation would deter, not further, judicial economy. To be sure, such a procedure would likely require the creation of numerous separate MDLs for each hotel "brand."[8] All MDLs would presumably be transferred to separate jurisdictions and handled by a differing transferee judge. But many of these cases involve claimants naming multiple hotel brands alleging defendants are responsible for Plaintiff's injury (*i.e.*, damages from alleged sex trafficking).

Take the *S.C.* case, for example. In *S.C.*, Plaintiff named eight defendants including: Red Roof Franchising, LLC, Red Roof Inns, Inc., Days Inn Worldwide Inc., Choice Hotels International, Inc., Six Continents Hotels Inc., Holiday Hospitality Franchising, LLC, and Crowne Plaza, LLC. *S.C.*, No. 1:23-cv-00871 (N.D. Ohio) (ECF No. 9, Am. Compl.). Plaintiff S.C. alleges each defendant violated the TVPRA and is responsible for her damages that allegedly resulted from her alleged trafficking. Allowing a separate MDL for each hotel brand, or defendant, means S.C.'s case would need to be severed against each defendant and then transferred to separate MDLs where each defendant could receive different rulings on discovery and pretrial matters. These disparate rulings could range anywhere from the scope of discovery to the law that applies within the TVPRA. In other words, defendants in the same case, against the same plaintiff, alleging

[8] The Red Roof Defendants note that Judge Gwin asked the defendants in Opposition to Plaintiff's motion to stay in *S.C.* to identify "unique defendants" that were proposed to be consolidated in an MDL. *S.C.*, No. 1:23-cv-00871 (ECF No. 180, PageID 2064-2066). That list identifies at least 51 Defendants named throughout the 53 cases proposed to be consolidated. Recognizing there are not 51 "brands," the Red Roof Defendants still anticipate that brand specific consolidation could require at least nine "brand specific" MDLs and potentially more.

responsibility for the same injuries would be in different MDL's in front of different judges, in different jurisdictions, and subject to potentially different rulings. And not only that, but those plaintiffs would be forced to participate separately in each MDL and be subject to inconsistent rulings as well.

This does not promote efficiency. To the contrary, it would create deeply concerning procedural issues that deter—not further—the purposes of consolidation. *See, e.g.*, *In re ARC Airbag Inflators Prod. Liab. Litig.*, 648 F. Supp. 3d 1378, 1380 (J.P.M.L. 2022) (finding "manufacturer-specific MDLs would unnecessarily complicate the litigation" when there were "nine different groups of vehicle manufacturer defendants, some only named in one action"); *In re Porsche "Clean Diesel" Mktg., Sales Pracs., & Prod. Liab. Litig.*, 158 F. Supp. 3d 1369, 1371 (J.P.M.L. 2016) ("A separate Porsche-only MDL would require retransfer of those claims to that separate MDL or coordination between two transferee judges as to discovery and motion practice. Either result would carry a heightened risk of inconsistent pretrial rulings and promises few efficiencies.").

Second, even if brand-specific MDLs promoted some semblance of judicial efficiency (they do not), this procedure still suffers from the same fatal flaws outlined above. That is—claims under the TVPRA do not involve common factual questions. To be sure, no matter the "brand," TVPRA claims involve separate hotels, separate hotel staff, separate franchisees, separate law enforcement, separate traffickers, separate claimants, and separate time frames. *See supra* Section II.C (comparing *S.C.* and *Jane Does 1-4* both involving the "Red Roof" brand but involving distinctly different facts that do not overlap). Thus, even if this procedure was viable, this procedure also fails to meet the requirements of consolidation.

F. Even if centralization were proper—and it is not—the cases should be transferred to a district where the claims have proceeded through discovery and trial.

One of the underlying goals of centralization is to preserve judicial resources and promote efficient pretrial management of cases. However, as stated above, this goal would not be advanced here, and as such, it is the Red Roof Defendants' position that these cases are not appropriate for centralization under Section 1407. Yet, in the unlikely event that these cases are centralized, it may be more judicially economical to transfer the cases to the Northern District of Ohio where two TVPRA cases are set for trial in May,[9] and where significant judicial resources and time have been invested in these matters.

III. CONCLUSION

For the foregoing reasons, the Red Roof Defendants respectfully request that the Panel deny Plaintiffs' Motion for Transfer.

Dated: February 7, 2024

TUCKER ELLIS LLP

/s/ Chelsea Mikula
Chelsea Mikula

Attorneys for
Red Roof Inns, Inc.
Red Roof Franchising, LLC
RRF Holding Company, LLC
RRI West Management, LLC

[9] The *S.C.* case, as mentioned above, as well as *R.C. v. Choice Hotels Int'l, Inc.*, No. 5:2023-cv-00872 (N.D. Ohio)—both pending in the Northern District of Ohio—are less than three months away from the close of discovery and are set for trial in May 2024. Given this posture, the cases have and will have decisions on not only discovery and expert issues, but summary judgment and pretrial motions, as well as jury instructions by early spring.

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: HOTEL TVPRA LITIGATION,	CASE NOS. 2:21-cv-4933; 2:21-cv-4934; 2:21-cv-4935; 2:22-cv-1924; 2:22-cv-2682; 2:22-cv-3185; 2:22-cv-3202; 2:22-cv-3256; 2:22-cv-3258; 2:22-cv-3416; 2:22-cv-3766; 2:22-cv-3767; 2:22-cv-3768; 2:22-cv-3769; 2:22-cv-3770; 2:22-cv-3771; 2:22-cv-3772; 2:22-cv-3773; 2:22-cv-3774; 2:22-cv-3776; 2:22-cv-3778; 2:22-cv-3782; 2:22-cv-3784; 2:22-cv-3786; 2:22-cv-3787; 2:22-cv-3788; 2:22-cv-3797; 2:22-cv-3799; 2:22-cv-3811; 2:22-cv-3837; 2:22-cv-3839; 2:22-cv-3844; 2:22-cv-3845; 2:22-cv-3846; 2:23-cv-1731

TRANSCRIPT OF STATUS CONFERENCE PROCEEDINGS
VIA ZOOM VIDEOCONFERENCE
BEFORE THE HONORABLE ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE, and
THE HONORABLE ELIZABETH PRESTON DEAVERS
UNITED STATES MAGISTRATE JUDGE
JANUARY 23, 2024; 4:00 P.M.
COLUMBUS, OHIO

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- - -

Proceedings recorded by mechanical stenography, transcript produced by computer.

MR. BABIN: That's my understanding, yes.

THE COURT: And did counsel meet and confer about potential case management options, including MDL litigation or multi-district litigation, I should say, either on an industry-wide or defendant-by-defendant basis? Do you know, Mr. Babin, whether that happened?

MR. BABIN: I know that we talked to various counsel with respect to whether they would support an MDL. I know there has not been a call with all the faces I see here with respect to meeting and conferring about filing for the MDL. I'm not certain whether defense counsel has done that on their own.

We -- I did meet with a number of plaintiffs' counsel with respect to what would be filed here. I'm not sure if that is meet and confer. But those are the meetings that we've had, in essence, for what we intended to file.

THE COURT: And was that -- were all of the actions that you took consistent with the Court's order from that last conference, Mr. Babin, in your -- based on your understanding?

MR. BABIN: I think that they are consistent except for potentially the filing would have been anticipated to be at a later date. We had a belief that there was going to be a filing before ours, not from defense counsel here. And we read that docket entry a number of times and agreed that it was in compliance with the order. I think it directs us to provide an

opportunity for the defense counsel to join and that opportunity isn't lost based on what we filed. We filed briefs Monday or Tuesday, whatever date --

THE COURT: I want you to go back a minute, Mr. Babin, and explain in greater detail what led you to act in a manner that was not consistent with the scheduling order that the Court set forth.

MR. BABIN: So we had two things, essentially, Your Honor. One would be Mr. Hamrick's email that this would be distributed which was a concern of ours. The primary concern -- to be completely forthright here, we had a faction of other plaintiffs' attorneys who were not in line with us and we had an indication they were going to file before that filing timeline.

THE COURT: Stop right there and tell me what that indication was.

MR. BABIN: Talking to them on the phone after multiple conversations. And we were concerned we would not be in compliance with the Court's desire to have us file and approach the panel first. And there would be no prejudice to the --

THE COURT: Did other counsel tell you that they were going to file for an MDL elsewhere?

MR. BABIN: I think that -- hopefully they won't now, but there's still --

Other than that, was there any reason that you thought it was prudential to file before the 12th?

MR. BABIN: Well, other than just -- this is the same language, but the email from Mr. Hamrick indicating there was a desire to share this amongst individuals other than the clients and the lawyers in this action. And I didn't know what other interested parties may or may not want to do with respect to an MDL. I know first to file is going to put you in a position different than second to file.

THE COURT: In your calculus, did you give consideration to the fact that these were dates that had been agreed by the parties and had the imprimatur of the Court?

MR. BABIN: I did, Your Honor, and I --

THE COURT: Again, did you -- I'm just trying to understand how you would act in a manner that appears to be inconsistent with the Court's order which grew out of an agreement among and between the parties. That's what I'm trying to get to the bottom of.

MR. BABIN: We read the order multiple times, Your Honor, before filing, with multiple lawyers including the ones who signed the petition. And I don't think that we violated four, that we filed before. And I don't think that we violated three because they still have an opportunity to join. I can understand the discussion here, but I don't think --

THE COURT: Is that what the order says?

C E R T I F I C A T E

I, Shawna J. Evans, do hereby certify that the foregoing is a true and correct transcript of the proceedings before the Honorable Algenon L. Marbley, Judge, and Elizabeth Preston Deavers, Magistrate Judge, in the United States District Court, Southern District of Ohio, Eastern Division, on the date indicated, reported by me in shorthand and transcribed by me or under my supervision.

s/Shawna J. Evans
Shawna J. Evans, RMR, CRR
Official Federal Court Reporter

January 30, 2024

EXHIBIT B

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

J.M., an individual, Plaintiff, v. Red Roof Inns, Inc., Defendant.	No. 2:22-cv-00672-KJM-JDP ORDER

Plaintiff J.M. moves to stay proceedings pending a decision from the Judicial Panel on Multidistrict Litigation (JPML) on whether this case will be transferred to a different court for a multidistrict litigation proceeding (MDL). The sole defendant, Red Roof Inns, Inc., opposes the motion. The court held a videoconference hearing on plaintiff's motion on January 22, 2024, at which Jennifer El-Kadi and Penny Barrick appeared for plaintiff and Chelsea Mikula and Amanda Villalobos appeared for defendant. Mins., ECF No. 103. Having carefully considered the parties' briefing and arguments at hearing, for the reasons set forth below, the court **denies** the motion to stay.[1]

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[1] The court denied the motion to stay in a minute order issued January 23, 2024. *See* Min. Order (Jan. 23, 2024), ECF No. 104. This order explains the reasons for the court's denial.

I. BACKGROUND

A. This Case

In April 2022, plaintiff filed this case, initially suing both Red Roof Inns, Inc. and Choice Hotels International, Inc. *See generally* Compl., ECF No.1. This court held the initial Rule 16 scheduling conference in October 2022, and issued a scheduling order immediately following that conference. Min. Order, ECF No. 36; Scheduling Order, ECF No. 37. The court has approved relatively minor modifications to the initial schedule; at this point fact discovery is scheduled to close on February 3, 2024, and expert discovery on April 12, 2024, with a dispositive motion cutoff of May 13, 2024. *See* Prior Order (July 18, 2023), ECF No. 83; Prior Order (Jan. 4, 2024), ECF No. 96. The parties confirmed at hearing that an independent medical examination of plaintiff is set for February 3, 2024, and they are in discussions regarding the setting of depositions. While defendants have filed a motion seeking leave to file a third-party complaint against its franchisee, *see* Mot. for Leave, ECF No. 97, defense counsel represented that if the motion is granted it will not require a full reopening of discovery, and plaintiff's counsel did not argue otherwise.

Plaintiff voluntarily dismissed Choice Hotels in February 2023, *see* Dismissal Notices, ECF Nos. 62, 65; Min. Order (Feb. 28, 2023), ECF No. 66, and since then the case has been proceeding against only Red Roof Inns, Inc. Plaintiff's current counsel, aside from local counsel, substituted into the case in July 2022, ECF Nos. 21, 22, 23, with one attorney appearing in November 2023. ECF No. 94.

B. JPML Proceedings

In 2020, before plaintiff filed this case, the JPML denied a motion to centralize approximately three dozen cases brought by sex trafficking survivors against hotel brand franchisors, franchisees, and related entities alleging violations under the Trafficking Victims Protection Reauthorization Act (TVPRA), 18 U.S.C. § 1595(a). *See In re Hotel Indus. Sex Trafficking Litig.*, 433 F. Supp. 3d 1353 (U.S. Jud. Pan. Mult. Lit. 2020). The JPML denied the motion based on the "unique issues concerning" the allegations in each of these actions. *Id.* at 1356. As this case has been proceeding, several new TVPRA actions have been filed across the

country, many of them filed by plaintiff's current counsel. *See* Mot. At 1–2, ECF No. 98; Transcript at 11, Mot. Ex. A, ECF No. 98-1; *see also* Mot. To Transfer, *IN RE: Hotel Industry Sex Trafficking Litigation (No. II)*, No. 3104 (U.S. Jud. Pan. Mult. Lit. Jan. 9, 2024), ECF No. 1.[2]

On January 9, 2024, plaintiff's counsel filed a motion before the JPML seeking reconsideration of that panel's prior order denying the creation of an MDL. *See* Mot. At 1–2. Plaintiff's counsel represents to this court that it filed the motion for reconsideration at the direction of the Chief Judge of the Southern District of Ohio. *See* Mot. At 2*; see also* Min. Order, *L.G. v. Red Roof Inns, Inc. et al.*, No. 22-1924 (S.D. Ohio Dec. 6, 2023), ECF No. 52. That Chief Judge is presiding over a number of TVPRA cases, filed between March 2019 and May 2023. Mot. At 3; *see, e.g.*, Compl., *S.R. v. Wyndham Hotels & Resorts, Inc. et al.*, No. 23-1731 (S.D. Ohio May 23, 2023), ECF No. 1; Compl., *M.A. v. Wyndham Hotels & Resorts, Inc. et al.*, No. 19-849 (S.D. Ohio Mar. 8, 2019), ECF No. 1.

Not quite a week after filing the motion for consideration with the JPML, on a federal holiday, plaintiff's counsel filed their request to stay here, setting the motion for a date not available on the court's calendar. *See* Mot. Defendant opposes the motion. Opp'n, ECF No. 101. As noted, the court heard the motion by videoconference, specially setting a hearing date given that time is of the essence. *See* Mins.

II. APPLICABLE RULES

A. Federal Rules of Civil Procedure

Federal Rule of Civil Procedure 1 provides that the civil rules "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding." Fed. R. Civ. P. 1. To that end, Federal Rule of Civil Procedure 16 provides for a court to schedule "one or more pretrial conferences" for the purposes, among others, of "expediting disposition of the action," "establishing early and continuing control so that the case will not be protracted because of lack

[2] A court may take judicial notice of undisputed matters of public record, including publicly available court records. *See United States v. Raygoza-Garcia*, 902 F.3d 994, 1001 (9th Cir. 2018).

of management," and "discouraging wasteful pretrial activities." Fed. R. Civ. P. 16(a)(1), (2), (3). The court "must issue" a scheduling order "as soon as practicable," and no later than "90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared." Fed. R. Civ. P. 16(b)(2). Once the court sets a schedule it "may be modified only for good cause and with the judge's consent." Fed. Riv. Civ. P. 16(b)(4).

B. JPML Statutory Authority and Rules

The JPML is authorized to transfer "civil actions involving one or more common questions of fact," which "are pending in different districts . . . to any district for coordinated or consolidated pretrial proceedings." 28 U.S.C. § 1407(a). Rule 2.1(d) of the Judicial Panel on Multidistrict Litigation Rules of Procedure states the pendency of a motion before the panel brought under 28 U.S.C. § 1407 "does not affect or suspend orders and pretrial proceedings in any pending federal district court action and does not limit the pretrial jurisdiction of that court." A putative transferor court does not automatically issue a stay when a motion to transfer is pending before the JPML. *See Stuart v. DaimlerChrysler Corp.*, No. 08-0632, 2008 WL 11388470, at *2 (E.D. Cal. Dec. 23, 2008). Instead, when considering a motion to stay proceedings, a court considers the following three factors: "(1) potential prejudice to the non-moving party; (2) hardship and inequity to the moving party if the action is not stayed; and (3) the judicial resources that would be saved by avoiding duplicative litigation if the cases are in fact consolidated." *Rivers v. Walt Disney Co.*, 980 F. Supp. 1358, 1360 (C.D. Cal. 1997). The party moving for a stay, here the plaintiff, "bears the burden of establishing its need." *Clinton v. Jones*, 520 U.S. 681, 708 (1997) (internal citation omitted). As the Supreme Court has prescribed, "if there is even a fair possibility that the stay . . . will work damage to some one else," then the party seeking the stay "must make out a clear case of hardship or inequity." *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936). The court examines each of these factors in turn.

III. DISCUSSION

A. Prejudice to Non-Moving Party

Plaintiff argues defendant, the non-moving party, would not be prejudiced if the court issues a temporary stay. Mot. at 5. Plaintiff asserts any delay would be minimal and suggests

defendant would even benefit from first allowing the JPML to issue its decision, in that all parties might benefit from a saving of time and effort if the panel orders consolidation, or tailor litigation practice following any panel decision. *Id.* In response, defendant argues it "would be severely prejudiced if a stay is entered," given that the fact discovery cutoff of February 3, 2024, is now less than two weeks away. Opp'n at 4. Specifically, defendant contends it has expended significant resources in preparing for plaintiff's deposition and independent medical examination, both set to occur within the next two weeks by the fact discovery cutoff. *Id.* at 3–4; Amanda Villalobos Decl. ¶¶ 4–5, 7, ECF No. 101-1. Additionally, defendant states it has retained experts who are in the process of finalizing their reports due on February 7, 2024. Opp'n at 4; Villalobos Decl. ¶ 6. If the court grants a stay, defendant argues it would have to have its "experts pause on their expert reports . . . hold off for 2-3 months and then re-familiarize themselves with the facts of the case all over again at a significant cost to [defendant]." Opp'n at 4. Given the very late date of plaintiff's motion to stay, filed so close to the fact discovery cutoff and start of expert discovery, the court finds a stay of proceedings at this stage would prejudice the defendant. Plaintiff's counsel has not met plaintiff's burden to show otherwise. This factor weighs heavily against granting the motion to stay.

B. Hardship and Inequity to Plaintiff

In the brief seeking a stay, plaintiff's counsel asserts if a stay is not granted this "would cause significant hardship to plaintiff." Mot. at 5. However, as defendant notes, plaintiff's brief focuses solely on hardship to plaintiff's counsel rather than plaintiff herself. *See* Opp'n at 4–5. For example, plaintiff's brief states, "plaintiff's counsel should be permitted to focus on the centralization process, which was ordered from another court" as "it would be inequitable for them to be forced to litigate on both fronts." Mot. at 6. While counsel acknowledges the significant work underway to meet the deadlines set by this court in the Rule 16 scheduling order, *id.*, they provide no meaningful or supporting declaration to support their conclusory statement that plaintiff will suffer hardship and inequity.

While plaintiff's counsel argued to the court during hearing that plaintiff J.M. would suffer hardship and inequity, the arguments took the form of generalized statements about the

potential for a plaintiff in a case of this kind to experience retraumatization if forced to relive the kind of experiences alleged in the complaint. *See* Second Am. Compl., ECF No. 52, ¶¶ 20, 56–64 (alleging specific sex trafficking of plaintiff at defendant's Stockton property in 2012). The complaint does note the sensitive nature of plaintiff's allegations, and requests that plaintiff be able to proceed under a pseudonym, *id.* ¶ 15, which the court has allowed, *see* Prior Order (Sept. 7, 2023), ECF No. 90 (approving parties' stipulation protecting plaintiff's identity). The complaint does not include allegations of retraumatization through litigation, and plaintiff's counsel has not otherwise moved for additional protective orders to shield plaintiff from unnecessarily intrusive or harmful discovery. Given the nature of the case, the court will remain alert to practices and procedures that may be needed to address issues of trauma if counsel raises them with proper support. But counsel's arguments have no support in the record currently before the court and are insufficient to meet plaintiff's burden. This factor too weighs against granting a stay.

C. Judicial Resources

Lastly, the court considers whether a stay would advance judicial economy. Plaintiff argues "[c]ontinued litigation until the JPML rules would be an unnecessary use of this [c]ourt's resources." *Id.* at 7. In support of this argument, plaintiff cites a court decision from the Eastern District of Louisiana, which found the judicial economy factor weighed in favor of granting a motion to stay. *Louisiana Stadium & Exposition Dist. v. Financial Guar. Ins. Co.*, No. 09-235, 2009 WL 926982 (E.D. La. Apr. 2, 2009). In that case, the motion to stay was filed a month after the case was filed, and the presiding court reasoned it would have had to spend significant time and energy early in the case familiarizing itself with allegations involving complex financial transactions, especially given a forthcoming motion to dismiss. *Id.*; Compl., *Louisiana Stadium & Exposition Dist. V. Financial Guar. Ins. Co.*, No. 09-235 (E.D. La. Jan. 22, 2009), ECF No. 1; Mot. to Stay, *Louisiana Stadium & Exposition Dist. V. Financial Guar. Ins. Co.*, No. 09-235 (E.D. La. Feb. 20, 2009), ECF No. 7.

Plaintiff also cites a Northern District of Texas case in which the presiding judge granted a stay in part because he found "its pretrial procedures w[ould] be wasted" if the JPML granted the

motion to transfer. *U.S. Bank v. Royal Indem. Co.*, No. 02-0853, 2002 WL 31114069, at *2 (N.D. Tex. Sept. 23, 2002). This case too is distinguishable. In *U.S. Bank*, the motion to stay was filed just over a month after the court issued the scheduling order. Scheduling Order, *U.S. Bank v. Royal Indem. Co.*, No. 02-853 (N.D. Tex. June 14, 2002), ECF No. 11; Mot. to Stay, *U.S. Bank v. Royal Indem. Co.*, No. 02-853 (N.D. Tex. July 23, 2002), ECF No. 11. Here, in contrast to both the *Louisiana Stadium* and *U.S. Bank* cases, this court has presided over this case for nearly two years, expending judicial resources on pretrial procedures, supervision of the Rule 16 schedule and motion practice. It has familiarized itself with the underlying factual allegations and procedural history of this case and issued orders on two motions to dismiss. *See* Prior Order (Oct. 17, 2022), ECF No. 42; Prior Order (May 12, 2023), ECF No. 70. It is preparing to resolve defendant's pending motion for leave to file a third-party complaint. Mot. for Leave. And as noted, fact discovery is about to close and expert discovery open, with dispositive motions due in less than four months. *See* Prior Order (July 18, 2023); Prior Order (Jan. 4, 2024). The time during which the court's judicial resources could have been conserved—the time Congress identified in the MDL statute as appropriate for designation of an MDL court—has mostly passed.

The judicial economy factor also does not weigh in favor of granting a stay; rather it weighs heavily against a grant.

Two of the factors informing whether to grant plaintiff's motion to stay weigh heavily against doing so, and plaintiff's counsel has not met plaintiff's burden with respect to the third factor. The court will deny the motion to stay.

IV. CONCLUSION

For the reasons set forth above, the court **denies** plaintiff's motion to stay.

This order resolves ECF No. 98.

IT IS SO ORDERED.

DATED: January 24, 2023.

CHIEF UNITED STATES DISTRICT JUDGE

EXHIBIT C

CERTIFIED COPY

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE
KIMBERLY J. MUELLER, DISTRICT JUDGE PRESIDING

J.M., an individual, Plaintiff, v. CHOICE HOTELS INTERNATIONAL, INC.; and RED ROOF INNS, INC., Defendants.	Case No: 2:22-cv-0672-KJM-JDP Motion Hearing Monday, January 22, 2024

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Pages 1 through 25

OFFICIAL REPORTER: Abigail R. Torres, CSR, RPR/RMR, FCRR
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United States District Court
Eastern District of California
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Proceedings recorded by mechanical stenography. Transcript produced by computer-aided transcription.

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SACRAMENTO, CALIFORNIA; MONDAY, JANUARY 22, 2024; 2:00 P.M.

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THE CLERK: Calling Civil Case No. 22-0672, *J.M. v. Choice Hotels International, Inc., et al.* This is on for Plaintiff's motions to stay, Your Honor.

THE COURT: All right. Good afternoon.

Appearances, please, for plaintiff, lead counsel first.

MS. EL-KADI: Jennifer El-Kadi for the plaintiff, Your Honor. Lead counsel.

THE COURT: All right. Good afternoon. And also appearing for plaintiff.

MS. BARRICK: Penny Barrick, Your Honor, on behalf of plaintiff.

THE COURT: All right. Good afternoon to you.

For the defense Red Roof Inns.

MS. MIKULA: Good afternoon, Your Honor.

Chelsea Mikula on behalf of the defendant.

THE COURT: Good afternoon to you.

And also appearing?

MS. VILLALOBOS: Amanda Villalobos on behalf of defendant, Your Honor.

THE COURT: All right. Good afternoon.

Someone else was trying to appear from an airplane. And I'm sorry. I denied that person access to the hearing.

I don't know that that complies with FAA rules. Let alone, what this Court expects.

So, first, there's no question about my jurisdiction to decide a motion to stay, or any other motion, for that matter, until the MDL panel makes a decision, right, Ms. El-Kadi.

MS. EL-KADI: That is correct, Your Honor.

THE COURT: Ms. Mikula?

MS. MIKULA: Yes, you have jurisdiction. Just side issue, yes.

THE COURT: So I'm looking at the factors related to the question of how they're not -- the matter here should be stayed, prejudice to the nonmoving party, prior to -- inequity to the nonmoving party, and preservation of judicial resources.

And here, there's a lot of water under the bridge since the MDL last considered this matter. And I've looked back at the docket. I'm clear on the calendar. I do have questions related to that.

Let me just ask, Ms. El-Kadi, initially, what is your focused response to the defense saying it would be severely prejudiced, given your arguments that, well, the defense would not be? Why would the defense not be, given this case was filed April of 2022? There's been discovery. We're closing in on a fact discovery cutoff, expert cutoff in April, and a dispositive motion cutoff in the fairly near future.

MS. EL-KADI: Yes, Your Honor. So plaintiff's counsel believes that there is no or little to no prejudice with respect to the defendants in this case because should the JPML grant the MDL motion or even deny it, there would only be a minimum of a two- to three-month stay, so it -- we would pick right back up where we left off.

Right now, we have continued with litigation, presuming that, you know, the stay would not get granted, so we are making sure that we're meeting those deadlines, but we believe that there is not prejudice to the defendants here at -- so much that there would be to the plaintiff in this case, given that she is a survivor of human trafficking, and putting her through litigation where the panel could grant this or continuing -- we have her deposition scheduled for January 31st.

Her DME is scheduled for, I believe, February 5th, and so we are proceeding, but to have her endure that right now, and given that the panel potentially could grant this MDL, would cause severe retraumatizing to the client.

THE COURT: Your briefing doesn't say anything about -- the defense is correct. The briefing, there's nothing before me that addresses prejudice to the plaintiff, so you're arguing that now.

Well, what supports that besides your bare argument?

MS. EL-KADI: I would say -- and I apologize, Your

Honor. I would say the hardship to the plaintiff is more so the element. With respect to the prejudice to the defendant, it would just be that this case would be put on stay for at minimum two to three months pending the decision from the JPML panel and courts have routinely allowed for that, given when a motion is pending before the JPML.

THE COURT: Well, the courts made recent decisions. In some of the cases you cite, it's when preliminary proceedings have not even gone forward. That's not -- this case has a history. This Court has decided motions to dismiss and scheduled the matter.

So I think this -- I don't know if this is an unusual posture. Well, let's just talk about the plaintiff. Again, you're arguing hardship. You didn't say anything -- all of the request to stay was supported by the inconvenience to counsel, so I understand generally -- generally the issues that you're raising. But, again, there's nothing in the record -- is J.M. herself telling me she wants me to stay this case because there would be hardship and inequity to her -- assuming this is a her. Maybe I've got that wrong -- but J.M.

Ms. El-Kadi.

MS. EL-KADI: Yes, Your Honor. J.M. herself is stating that this stay would be beneficial to her, herself, and -- I apologize if it wasn't articulated in the briefing. It is with respect to J.M. herself, given the retraumatizing

that these cases have.

And when you have numerous plaintiffs, like we do in -- across the country, spread across jurisdictions, if the panel does grant that MDL, they have more support and ability to want to come forward and tell their story. Right now, there is, like, significant fear for the client --

THE COURT: Where is that in the record? How do I -- you know, it's an argument. But what in that reference supports that? Because I could be thinking, as the local trial judge, no matter that this district is a burdened district, we know how to prioritize. And this case -- this case would -- if it stayed on track -- would get to resolution long before anything that goes to the MDL.

I can tell you when we send cases -- I mean, we don't get to choose, ultimately. But when our cases go to the MDLs, they come back here six years later, eight years later, so that's a long period of time when you're thinking about someone like J.M. And I just -- what allows me to think about the impacts of the case on the plaintiff given what happens with these -- these MDLs, which are kind of like octopuses.

MS. EL-KADI: Well, certainly, Your Honor. And if it would benefit the Court, I would absolutely be more than happy to have my client produce an affidavit in support of that argument, if that would be what the Court would request.

THE COURT: Well, I'm not necessarily requesting it.

I'm pointing out to you the absence of anything in the record that supports the argument you are now making, you know.

So my questions are: Has J.M. been told, "Okay. If the MDL grants this request" -- which another trial judge is arguing for -- geographically inconvenient and probably a long time until her case is resolved, does that -- does J.M. understand that and with that understanding --

MS. EL-KADI: Yes --

THE COURT: -- does J.M. says the hardships and the inequity weigh in favor of moving the case?

MS. EL-KADI: Yes, Your Honor. We have explained to J.M. what would happen should an MDL be granted, and the potential that her case might not even be chosen for one of the first trials. And she understands that her position was that if there are others and numerous individuals that are also coming forward, it gives her the ability to want to continue and to move forward with the case.

She still is willing to move forward with the case now, as having the additional support with the panel, and she understands -- you know, she -- she was trafficked in 2012. And so it has taken her time to heal, and she still is not fully healed to even speak on her trauma. And so even the additional time for her is helpful and beneficial in that sense of helping her cope through the emotions.

THE COURT: Well, she brought the case. She's got the

IME, as you mentioned, for February 3rd. That's set; right?

MS. EL-KADI: Yes, Your Honor.

THE COURT: Fact discovery set to close February 3rd with the end of fact discovery.

For Ms. Mikula, just given what Ms. El-Kadi is saying, if that were supported by evidence in the record, does that not weigh heavily in favor of the -- the second factor?

MS. MIKULA: We do not believe it does, Your Honor. To the point that you just made, she made the decision to file the lawsuit, and she made the decision to file the lawsuit in 2022. We take the allegations very seriously. But with all due respect to Ms. El-Kadi, the burden to the moving party that the Courts look at is not simply, Does she have to undergo a deposition?

That is a requirement of the mere fact of filing a lawsuit. We have gone back for months and months to get this deposition scheduled. We incurred significant time and expense in collecting her medical records, getting ready for this deposition. We have multiple experts. They are days away from finishing their expert reports. It's not as simple as pausing the case for three months or six years and picking up where you left off.

That's an extreme prejudice to us, and you can't ignore -- I'm not saying you would, but plaintiff can't ignore the cost that is associated with that. They made the decision

to file this case that is on track. Even if it went to the MDL, it would be sent back to this court for trial proceedings.

We need two more weeks to finish discovery. That's all we've asked for. It's set. We see no reason to take this off calendar on the hope that maybe the MDL would change its decision. This decision was before the MDL four years ago, and it said that these cases are not appropriate for an MDL.

There have been no change in circumstances, from our opinion, that the MDL is going to change its mind. Frankly, we feel -- we have chased plaintiff's counsel for this deposition date. We feel that they are behind, and they need more time to prepare their case, and that is not a sufficient basis for this Court to grant a stay.

THE COURT: All right. And I understand that argument.

On the other factors related to the plaintiff, J.M. is the only -- she has -- J.M. has only one case, and it's only one hotel, right, not multiple hotels? Ms. El-Kadi?

MS. EL-KADI: That is correct, Your Honor. And with respect to the filing, she did have a statute approaching, which is also why we did speak with the client and indicate to her, you know, if she did want to preserve her claim, we did, in fact, need to file the case. And she had agreed at that time that she wanted to file rather than not file and lose the potential of having her case.

THE COURT: But you haven't set up a protective order to delay discovery to take account of what you're describing is her ongoing traumatization; right?

MS. EL-KADI: No, Your Honor. I have not.

THE COURT: And this Court can't know if J.M.'s case would be available with her -- I mean, what are -- are plaintiff's counsel saying they're going to argue for this case being bellwether, given how much time has been put in?

MS. EL-KADI: I would not know, Your Honor, given that that -- although we did file, there could be a potential with the bellwether committee to decide whether or not that her case would be. We would probably try. And, obviously, because of the length of time ahead we've had with this case, we would potentially try and have it be a bellwether case, given how far along it is.

THE COURT: Of all the other cases, how -- where is this one in line in terms of filing date?

MS. EL-KADI: With respect to our Southern District of Ohio cases, they have been -- the main issue -- with respect to Southern District of Ohio, they're probably -- we have one case that is very far along that potentially is going to trial, but the Court did just order a Court-appointed mediation.

Our Northern District of Ohio cases are set for trial in April. We have a case in Texas and Pennsylvania that are very early on, and in new Mexico that are very early on. So I

would say that this case is probably, though, about the same, given the fact that we have been having to relitigate issues with the same counsel in cases across the country.

So, you know, we did just get a supplemental production from defendants just last week. We've been having issues with discovery --

THE COURT: In this case?

MS. EL-KADI: Yes.

THE COURT: In this case.

MS. EL-KADI: Yes, Your Honor. And that is also -- I will acknowledge that the -- plaintiff's counsel should have brought scope issues to the Court sooner. I think we were trying to resolve those issues without the Court's involvement. But we are at the point where it -- should the Court deny the stay, we will proceed with discovery. We will -- we have ordered up depositions for quality assurance. We will take 30(b)(6) depositions. But we -- as mentioned, with respect to scope and getting the documents that we need, we got a production late in November, and we served discovery in August, and we didn't get a supplemental production until just last week.

THE COURT: All right.

MS. MIKULA: So Your Honor --

THE COURT: Quick question -- I'm sorry.

MS. MIKULA: Go ahead.

THE COURT: Ms. Mikula.

MS. MIKULA: I was simply going to say there are no outstanding or pending meet-and-confer issues in this case. We had a meet-and-confer process. That issue was resolved. We did supplement a production in response to that letter, but there are no outstanding meet-and-confer letters or issues to defendant's knowledge.

MS. BARRICK: Your Honor, may I --

THE COURT: I'm sorry. Well, I like to stick with the lead counsel, but okay.

MS. BARRICK: Just one thing. We got an e-mail from Ms. Mikula and Ms. Villalobos just an hour ago, asking us if February -- for a date to bring our -- our current discovery dispute before this Court. And they asked if the February date would be fine. We have a dispute about social media. We have had decisions from Chief Judge Marbley and from Judge Gwen in the Northern District of Ohio on these discovery issues with regard to social media.

We are at an impasse. We have gotten inconsistent decisions from the two courts in Ohio. And now the defendants are going to bring this same issue before this Court. And our discovery dispute is going to be calendared before this Court in -- sometime here in the next two weeks.

So although discovery has been ongoing, it is not nearly as far along as defendants or this Court, I think,

thinks it is. We have been -- I'm not saying that defendants are not engaging in good-faith efforts. Both sides are. But many of the issues are being relitigated and relitigated, and we are getting inconsistent decisions.

Your Honor's decision out of -- for a motion to dismiss. We see that this Court understands -- understands deeply and sophisticatedly the issues before it. And it's not that we don't want to litigate before this Court. We would move the MDL and put it before this Court. It's just that we are relitigating over on many different fronts.

And if we stay in front of this Court, great, we will do it. In a few months -- it's a few months. I understand -- we all have costs with regard to litigation. I understand defendants' point, but it's not nearly as prejudicial as requiring our client to go through a deposition that may not even matter because if -- even if we wanted to keep it before this Court, Chief Judge Marbley has ordered us to go to the panel. We went to the panel upon his order. And if the panel does rehear it, we go through all of this again. And --

THE COURT: I understand that. But what -- I'm a chief judge. I'm a presiding judge in this case. Could I order you to tell the MDL not to include this case in that batch of cases, given how much longer under the bridge it's here? I just --

MS. BARRICK: Maybe --

THE COURT: I don't know. There's something not right here.

MS. BARRICK: You could --

THE COURT: You have a fact discovery cutoff of February 3rd. So you can tell me there's not that much discovery, but your cutoff for fact discovery is February 3rd.

So I don't know if everyone has been assuming I'm just going to rubber stamp a motion to stay. But I mean, when I look at the docket here and the issues, I just -- it troubles me, which is why I'm having this discussion with you right now.

MS. BARRICK: Your Honor, we should have brought this issue to you before this. We literally got discovery -- we just got discovery last week. We are not -- we -- we have -- we have gone through it, and we made discovery requests in September. And defendant is calling it a rolling production, but it's actually just not meeting the date that they were required to give it to us.

We have been diligently trying with defense counsel to move forward in discovery. It is not -- we are not dragging our feet. We understand that this Court's deadlines mean something. They absolutely do. But we did not -- right when we didn't get the production on the date that it was due, we could have. And I love that your court docket -- how you require the court -- us to come before you, so that you can make a decision before any motion to compel is filed. And we

should have done that, but we didn't.

And we're in a position now where we are just -- we have just got documents that have to do with what we need for our 30(b)(6) deposition and the plaintiffs -- and Your Honor, if the Court -- if the panel denies it, we come back before you. And --

THE COURT: Well, I get all that. Let me just ask -- I'm sorry. Am I pronouncing your name correctly? Is it Mikula?

MS. MIKULA: Yep. That is correct.

THE COURT: Okay. Sorry. I wasn't listening carefully earlier.

Anything to say based on what you just heard --

MS. MIKULA: So --

THE COURT: Based on supplemental discovery, what's the likelihood that you stipulate to extend the discovery cutoff? There's also that motion you have out there. I was going ask. I haven't -- I'm not going to prejudge it, but would that lead to reopening discovery?

MS. MIKULA: It should not. That is a document and a party that they have been in possession of for months now. They know that this property is owned by third-party franchisee. This is an issue we see in all of our cases. This counsel has chosen not to name the franchisee in their cases.

We, as a matter of course, bring them in, because if

there is someone responsible for plaintiff's actions, which we deny, we are not in control of the day-to-day operations of the hotel. And so that is an issue that will need to be decided.

But Ms. Barrick said, you know, there's plaintiff's social media that is going to be before the Court on February 1st. Yes, we have been diligent. We have been pressing the social media. That is a deficiency in plaintiffs's production.

It was a minimal supplemental production that was made last week. They've had the majority of our documents for months now. I'm not making up that we don't have a meet-and-confer letter stating deficiencies that we have.

We -- they asked us not -- there's no notice for a 30(b) deposition at all. There were two fact witness depositions that they asked us for. We provided dates. We said, "Please renotice it, and let us know if these dates work for you."

Just today, we heard, "Are these going forward in two days from now?" I said, "We heard nothing. We'll have to check with the witnesses." "Are you still available in two days?" To which they said no. They would need dates next week. Those aren't 30(b).

I mean, I don't know how they're planning on doing all of this that they're saying in the next two weeks. We would work with them to extend discovery by a small period of time,

yes, if they need to do so. But it's like they're just starting to litigate the case now.

THE COURT: All right. Let me ask a different question. And this is based on -- I am taking notice of the briefing before the MDL, because I'm trying to figure out what the right thing to do here is. And so I'm looking at plaintiff's motion for transfer to Southern District of Ohio, and there's an argument for centralization that talks about this issue of survivors, and the experience of going through litigation.

And so I'm quoting: "We know now that survivors cannot anticipate the rigors of enforcing those civil rights under the TBBPRA." Courts, you know, can be equipped. "A survivor seeking justice benefits from consistency in knowing what the judicial process will afford them in the way of identity protection, what to expect from discovery, avoidance of unreasonable delays."

Identity production not an issue here; right? Identity protected. Ms. El-Kadi, is -- so identity protected. "Expectations from discovery." This Court has had a clear schedule in place. I haven't heard any need for clarification of expectations.

And then "avoidance of unreasonable delays," well, the way to avoid delays, it would seem to me, is to keep this case on track, and so the suggestion that it's going to start all

over in front of a new judge when it comes to scope of discovery, I don't think -- this Court has not heard there's anything not afforded to J.M. in terms of protecting her from the rigors of litigation, while at the same time recognizing it's a case she brought.

Am I missing something there? I mean, I can afford her -- I keep saying "her." I can afford J.M. all the protections that J.M. needs to be able to litigate the case, vindicating her rights, if they can be vindicated; right?

Ms. Barrick, you're going to take this?

MS. BARRICK: Do you mind, Your Honor?

THE COURT: That's fine.

MS. BARRICK: Thank you.

Yes, it's not just protection from J.M. in discovery. It's a protection for J.M. getting inconsistent decisions in discovery. Just using social media as a small example, Judge Gwen ordered one year before and two years after of the social media download.

Judge Marbley said, "No download." Defendants in this case want one year before all the way to present. She was trafficked in 2012, so that would be about a decade full of it.

So in order for us to prep our client of what she needs to be protected -- to be prepared to provide in order to litigate her case, we can say to our client, in front of Chief Judge Marbley, "You will not have to provide this."

But now, we don't know what you're going to order for her to provide, so it's the rigors of the unknowing of what's coming in this litigation. So I think that answers your question.

Was there more, Your Honor?

THE COURT: I don't think so. I just -- I just wondered if there isn't a strong argument for covering this case out for the motion to transfer.

MS. BARRICK: Well, Your Honor --

THE COURT: Single plaintiff, single hotel, Central Valley of California, a long way from the Southern District of Ohio, well on its way -- she wouldn't face inconsistent -- J.M. would not face inconsistent ruling if it's this judge.

MS. BARRICK: Your Honor, the defendants have that opportunity to move the panel to do that, and we could, as well, but I just want -- we are an MDL firm, and we're -- the last MDL that we were on was hair relaxer, and we had a case that was going to trial in two weeks. And we asked the panel to not include it, and the panel included all of them.

So whether the panel does or does not include it, I think is something that's difficult for us to hang our hat on. We could certainly ask, Your Honor --

THE COURT: I mean, you're moving to transfer every case.

MS. BARRICK: That's correct. That's correct. We

believe that that is in the best interest of our client, to have all the cases combined, even though it will take some time for J.M.'s case to get to trial in the event that it is MDL in front of another judge.

But that is a small price to pay for her to be combined with others and for the litigation strategy to be able -- for us to say to her, "J.M., this is what you -- what you're going to have to be prepared to do at your -- for your discovery -- you know, for your social media. This is what you're going to have to" -- and, also, Your Honor, with regard to scope, we should have brought more, and we do plan to bring more disputes about the scope of discovery.

We've gotten scope issues from different judges across the country, and we did get more. Ms. Mikula was quite generous with us with regard to this case and gave us some. But it is very difficult for us to provide -- to prepare for a 30(b)(6) deposition with the documents we have.

So, yes, we will be vigorously litigating this over the next few weeks. Yes -- I think that answers your question.

THE COURT: Just a couple of other questions for Ms. Mikula. I do see a footnote someplace that says Judge Marbley has jurisdiction over all the Red Roof cases. But Red Roof is headquartered in Ohio.

MS. MIKULA: That's exactly --

THE COURT: What does that mean for the analysis here?

MS. MIKULA: I don't believe it has any -- any bearing on this analysis. It's plaintiff's, if they so chose to file in the Southern District of Ohio, because Red Roof is headquartered in Columbus. I don't think it has a bearing on the motion to stay.

THE COURT: Agreed.

Ms. Barrick, no bearing?

MS. BARRICK: I believe that it -- I believe that we had two defendants when this case was brought, Your Honor. And one defendant was --

THE COURT: Dismissed.

MS. BARRICK: -- no longer with us.

THE COURT: Dismissed.

MS. BARRICK: Yes. So that was why, because we didn't -- the Court in Ohio did not have jurisdiction over both, and we wanted to -- so that's why we brought it in California.

If the case were in the posture it is in today, the case would have been brought in front of Chief Judge Marbley because he does have jurisdiction over it. You know, we didn't -- over it the way that it stands now. We didn't want to inappropriately not bring a case against the hotel at which she was trafficked just so we could have jurisdiction in the Southern District of Ohio.

But if it had been procedurally the way it is right

now, we would have brought it there, so I do think it has some bearing on it, Your Honor. I think that all of the -- the reason that the Court in Ohio has jurisdiction over Red Roof Inn are for many reasons. And for -- the Court made decisions about the convenience for the parties and all of that, and why he has jurisdiction. So does that answer your question?

THE COURT: Well, I -- just no choice when it tells us it was dismissed in February of 2023, quite some time ago. So there was plenty of time to do something about that.

MS. BARRICK: Yes, Your Honor, but we didn't want a forum shop. I mean, we really didn't. We had, you know -- you -- that's how we felt about it.

THE COURT: All right. I don't have any other questions, really. The -- I have looked -- not just for this case but in other matters, I have studied the MDL rules. I understand Judge Marbley is saying he's going to send a letter to the panel. There's nothing providing for that. Nothing preventing it, I suppose. It's the parties that have the power.

I just -- I just don't know what to think about, you know, one judge ordering a party to bring a motion. I can't say that -- that it makes sense for me to issue such an order. I don't tend to operate that way, but I do intend to contact the panel. Maybe it's my own letter expressing my concerns about the timing in this case of the possibility of it being

transferred out. Not my call; ultimately, their call. But I do have grave concerns, given the amount of time, the time this Court has spent.

And I know a lot of folks say, "Oh, that overburdened Eastern District of California. We're helping them out by taking cases away." But that's not how we think about things here. We have a duty to the geography that we serve as a federal trial court. And these cases matter. This case matters to the Central Valley of California, to the Eastern District of California.

And when plaintiffs get transferred out, I -- I regularly worry about whether or not they're going into black holes. We may say it's a protective black hole, but it sure looks like a black hole when we don't get a case back for six to eight years, if that.

You're in a better position to assess whether or not J.M. would get better leverage. I don't know. You know, that's for you to decide. You've made representations here today subject to Rule 11. Again, nothing in the record that really addresses hardship or inequity. I understand the burdens issue. So that's what I'm thinking about. So if there's any final words you want to have at this point, you can, and then I'll issue an order on the motion to stay. Ms. Mikula first and then plaintiffs can go last.

MS. MIKULA: Nothing further, Your Honor.

THE COURT: All right. Anything further, Ms. El-Kadi? Ms. Barrick?

MS. EL-KADI: Nothing further, Your Honor.

MS. BARRICK: Thank you.

THE COURT: All right. Matter is submitted then.

Thank you.

(The proceedings concluded at 2:35 p.m.)

C E R T I F I C A T E

I, Abigail R. Torres, certify that I am a duly qualified and acting Official Court Reporter for the United States District Court; that the foregoing is a true and accurate transcript of the proceedings as taken by me in the above-entitled matter on January 22, 2024; and that the format used complies with the rules and requirements of the United States Judicial Conference.

DATED: January 31, 2024, San Diego
/S/ABIGAIL R. TORRES
_____
U.S. Official Court Reporter

EXHIBIT D

MDL No. 2928 IN RE: Hotel Industry Sex Trafficking Litigation
Date filed: 12/09/2019
Date terminated: 02/05/2020
Date of last filing: 02/14/2020

Associated Cases

MDL	Civil Action	Start Date	End Date
MDL No. 2928	CAN/3:2019-cv-08252 K.R. v. G6 Hospitality, LLC et al (No Action Taken)	01/08/2020	02/05/2020
	CAN/4:2020-cv-00155 J.C. v. Choice Hotels International, Inc. et al (No Action Taken)	01/16/2020	02/05/2020
	CAN/5:2020-cv-00656 B.M. v. Wyndham Hotels & Resorts, Inc. et al (No Action Taken)	01/30/2020	02/05/2020
	CO/1:2019-cv-03713 J.L. v. Best Western International, Inc. et al (No Action Taken)	01/13/2020	02/05/2020
	FLM/3:2019-cv-01412 C.K. v. Wyndham Hotels and Resorts, Inc. et al (No Action Taken)	01/08/2020	02/05/2020
	FLM/6:2019-cv-02414 Doe v. Rickey Patel, LLC et al (No Action Taken)	12/26/2019	02/05/2020
	GAN/1:2019-cv-03840 Jane Doe 1 v. Red Roof Inns, Inc. et al (Denied)	12/09/2019	02/05/2020
	GAN/1:2019-cv-03841 Jane Doe 2 v. Red Roof Inns, Inc. et al (Denied)	12/09/2019	02/05/2020
	GAN/1:2019-cv-03843 Jane Doe 3 v. Red Roof Inns, Inc. et al (Denied)	12/09/2019	02/05/2020
	GAN/1:2019-cv-03845 Jane Doe 4 v. Red Roof Inns, Inc. et al (Denied)	12/09/2019	02/05/2020
	GAN/1:2019-cv-04859 H.M. v. Red Lion Hotels Corporation et al (Denied)	12/09/2019	02/05/2020
	MA/1:2019-cv-11192 Doe C.D., an Individual v. R-Roof Asset, LLC et al (Denied)	12/09/2019	02/05/2020
	ME/2:2020-cv-00014 RT v. Wyndham Hotels & Resorts, Inc., et al. (No Action Taken)	01/16/2020	02/05/2020
	MIE/4:2019-cv-13622 H.G. v. Marriott International, Inc. et al (Denied)	12/09/2019	02/05/2020
	MN/0:2020-cv-00227 M.M. v. Wyndham Hotels & Resorts, Inc. et al (No Action Taken)	01/16/2020	02/05/2020
	NH/1:2019-cv-01213 B. v. Inter-Continental Hotels Corporation et al (Denied)	12/09/2019	02/05/2020
	NM/1:2019-cv-00963 Doe v. G6 Hospitality Property LLC et al (No Action Taken)	12/27/2019	02/05/2020
	NYE/1:2019-cv-06071 S.J. v. Choice Hotels Corporation et al (Denied)	12/09/2019	02/05/2020
	NYN/1:2019-cv-01520 V. G. v. G6 Hospitality, LLC (Denied)	12/09/2019	02/05/2020
	OHS/2:2019-cv-00755 H.H. v. G6 Hospitality LLC et al (Denied)	12/09/2019	02/05/2020
	OHS/2:2019-cv-00849 M.A. v. Wyndham Hotels & Resorts, Inc. et al (Denied)	12/09/2019	02/05/2020

	OHS/2:2019-cv-01194 Doe S.W. v. Lorain-Elyria Motel, Inc. et al (Denied)	12/09/2019	02/05/2020
	OHS/2:2019-cv-02970 T.S. v. Intercontinental Hotels Group et al (Denied)	12/09/2019	02/05/2020
	OHS/2:2019-cv-04965 A.C. v. Red Roof Inns Inc et al (Denied)	12/09/2019	02/05/2020
	OHS/2:2019-cv-05384 C.T. v. Red Roof Inns, Inc. et al (Denied)	12/09/2019	02/05/2020
	OR/3:2019-cv-01992 A.B. v. Hilton Worldwide Holdings, Inc. et al (Denied)	12/09/2019	02/05/2020
	PAE/2:2019-cv-05770 A.B. v. MARRIOTT INTERNATIONAL, INC. (Denied)	12/09/2019	02/05/2020
	SC/3:2019-cv-03442 H. v. Choice Hotels International, Inc. (No Action Taken)	01/21/2020	02/05/2020
	TXN/3:2019-cv-02901 F. M. v. Best Western International Inc et al (No Action Taken)	01/03/2020	02/05/2020
	TXN/3:2020-cv-00050 ES v. Best Western International Inc et al (No Action Taken)	01/17/2020	02/05/2020
	TXS/4:2019-cv-04172 W. v. Hilton Worldwide Holdings, Inc. et al (Denied)	12/09/2019	02/05/2020
	TXS/4:2019-cv-04993 Doe #6 v. Choice Hotels International, Inc. d/b/a Comfort Inn (No Action Taken)	12/27/2019	02/05/2020
	TXS/4:2019-cv-05016 Doe #9 v. Wyndham Hotels and Resorts, Inc. d/b/a La Quinta Inn and Suites et al (No Action Taken)	12/27/2019	02/05/2020
	TXS/4:2019-cv-05018 Doe (JW) v. Hilton Worldwide Holdings, Inc. (No Action Taken)	01/06/2020	02/05/2020
	VAE/4:2019-cv-00120 A.D. v. Wyndham Hotels and Resorts, Inc. (Denied)	12/09/2019	02/05/2020
	VAW/3:2019-cv-00076 J.F. v Hospitality International, Inc., et al (No Action Taken)	01/16/2020	02/05/2020
	WAW/3:2019-cv-06153 M.L. v. craigslist Inc et al (Denied)	12/09/2019	02/05/2020
	WAW/3:2020-cv-05075 A.T. v. Wyndham Hotels & Resorts Inc et al (No Action Taken)	01/30/2020	02/05/2020

BEFORE THE PANEL ON MULTIDISTRICT LITIGATION

IN RE: HOTEL INDUSTRY SEX TRAFFICKING LITIGATION II **MDL No. 3104**

PROOF OF SERVICE

This is to certify that, pursuant to Panel Rule 4.1, a true and correct copy of the foregoing was served on February 7, 2024 on the following via the CM/ECF system, via regular mail, or via electronic mail:

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G.M. v. Choice Hotels International, Inc. et al., S.D. Ohio, C.A. 2:22-cv-3788

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