

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

IN RE: T-MOBILE CUSTOMER DATA)
SECURITY BREACH LITIGATION,) MDL No. 3073
)
) Master Case No. 4:23-MD-03073-BCW
ALL ACTIONS)

**ORDER SETTING INITIAL PRETRIAL CONFERENCE AND GENERAL ORDER ON
PRACTICE AND PROCEDURE**

1. The Judicial Panel on MultiDistrict Litigation has designated this Court as the transferee court for MDL No. 3073, In re: T-Mobile 2022 Customer Data Security Breach Litigation. The following actions were transferred to this Court pursuant to 28 U.S.C. § 1407 for coordinated and/or consolidated pretrial proceedings:

- 4:23-CV-00052-BCW, Judith Lynch, et al. v. T-Mobile US, Inc.
- 4:23-CV-00375-BCW, Frankie J. Gonzalez, et al. v. T-Mobile US, Inc.
- 4:23-CV-00377-BCW, Lisa Frierson, et al. v. T-Mobile US, Inc., et al.
- 4:23-CV-00374-BCW, Bryan Corkins, et al. v. T-Mobile US, Inc.
- 4:23-CV-00372-BCW, Stephen S. Hart v. T-Mobile US, Inc.
- 4:23-CV-00379-BCW, Tamara Ferguson, et al. v. T-Mobile USA Inc.
- 4:23-VC-00371-BCW, Oscar Munoz, et al. v. T-Mobile US, Inc.
- 4:23-CV-00370-BCW, Jennifer Baughman, et al. v. T-Mobile US, Inc.
- 4:23-CV-00373-BCW, Christine Cortazal v. T-Mobile US, Inc.
- 4:23-CV-00378-BCW, Stephan Clark v. T-Mobile US, Inc.
- 4:23-CV-00380-BCW, Robin Dollson, et al. v. T-Mobile US Inc., et al.
- 4:23-CV-00424-BCW, Jessica Bailey, et al. v. T-Mobile USA Inc.
- 4:23-CV-00422-BCW, David Lopez, et al. v. T-Mobile USA, Inc., et al.

This Order will also apply to any related actions later filed in or removed to this Court, and any actions later transferred to this MDL docket, including those cases listed in the Conditional Transfer Order on file as of the date of this Order (Docs. #2).¹

These cases are consolidated for pretrial purposes only.

The Clerk of the Court will maintain a master docket with a single docket number and master record under the style In re: T-Mobile 2022 Customer Data Security Breach Litigation, MDL 3073, Master Case No. 4:23-MD-03073-BCW.

When an order, pleading, motion, or other document is filed and docketed in the master docket, it shall be deemed filed and docketed in each individual case to the extent applicable. To ensure that all documents are accurately filed, counsel shall select the master MDL case number in association with filings. The caption of any order, pleading, or other document shall contain a notation indicating whether the document relates to all cases or only to specified cases within MDL 3073. If a document generally applies to all cases within MDL 3073, the caption shall include the notation of “ALL ACTIONS.” If a document applies to fewer than all cases within MDL 3073, the caption shall include the specific case number assigned in the United States District Court for the Western District of Missouri, and shall also identify the name(s) of the individual case(s) to which it applies, in addition to “MDL 3073” and the master case number and name. Additionally, if a document applies to fewer than all cases within MDL 3073, the case number(s) to which the filing applies shall be indicated in the docket entry text with the electronically filed document.

In addition to the electronic docket sheet for master case MDL 3073, parties and counsel may reference the Court’s website for information pertaining to (1) other MDL proceedings in this jurisdiction at <https://www.mow.uscourts.gov/mdl-cases>; and (2) MDL 3073 specifically,

¹ 4:23-CV-00420-BCW, Elizabeth Shoemaker, et al. v. T-Mobile US, Inc., et al.;
4:23-CV-00421-BCW, Edward Polhill, et al. v. T-Mobile US, Inc.;
4:23-CV-00423-BCW, Richard Smith v. T-Mobile US, Inc.

available at <http://www.mow.uscourts.gov/judges/wimes>, through which the Court will provide pertinent contact information and general case updates, including Orders and upcoming hearings.

2. Proceedings and all items filed shall comply with the Western District of Missouri Local Rules. For convenience, the Local Rules are posted on the Court's website at www.mow.uscourts.gov.

3. Appended to this Order is the "Principles of Civility" adopted by the Kansas City Metropolitan Bar Association. COUNSEL SHOULD BE AWARE THAT THE COURT EXPECTS ADHERENCE TO THESE PRINCIPLES BY ATTORNEYS APPEARING IN THIS DIVISION. FURTHER, THE COURT BELIEVES IT TO BE IN THE INTEREST OF ALL CONCERNED FOR PARTIES TO BE AWARE OF THE COURT'S EXPECTATION. TO THAT END, COUNSEL SHALL FORWARD A COPY OF THE PRINCIPLES TO ALL CLIENTS INVOLVED IN THIS ACTION.

4. All papers filed with the Court must be filed electronically via the CM/ECF system. Information on electronic filing procedures is available on the Court's website at www.mow.uscourts.gov or at <http://ecf.mowd.uscourts.gov>. Attorneys are directed to refer to the CM/ECF Civil and Administrative Procedures Manual for instructions regarding the handling of exhibits. To create a CM/ECF account you must fill out the application found at www.mow.uscourts.gov/court/ecfregform.pdf and send it in to the appropriate address found on the form.

5. Attorneys are advised to review the docket to ensure their appearances have been properly entered. If an attorney is not listed on the docket, he or she should file a notice of appearance in MDL No. 3073. Any attorney not listed on the docket sheet and not registered to use the electronic filing system will not receive notice from the Clerk's Office of orders and other documents by the Court.

6. All submissions to the Court shall be in the form of motions; captioned, filed, and served as set forth in this Order. Notices of motions shall not be filed. Counsel are advised that the Court does not wish to receive courtesy copies of motions and other filings, except for dispositive motions and the respective responses. Rulings on non-dispositive motions will be expedited if a proposed order is provided to the Court. The proposed order should be typed in Word format and e-mailed to the Courtroom Deputy.

7. No motion shall be filed under Federal Rule of Civil Procedure 11, 12, or 56 without leave of Court. Any motion that does not comply with the page limitation(s) set forth by Local Rule shall be stricken unless prior leave of Court to exceed the limit has been granted.

8. The parties shall preserve all documents and records containing relevant information, including any electronically-stored information potentially relevant to the subject of this litigation.

9. Discovery is stayed at least until the filing of the Master Consolidated Complaint. The Court reserves ruling on other disputes among the parties related to the scope and timing of discovery (including any discovery related to any forthcoming motion to compel arbitration) until after the meet and confer process following appointment of lead counsel. The Master Consolidated Complaint shall be filed within 45 days of the Court's Order appointing lead counsel.

10. This matter is set for an initial pretrial conference on **Friday, September 29, 2023 at 10:00 a.m. CST**. The Court will provide an option for counsel to attend the initial pretrial conference by video conference call. If counsel would seek to appear for the initial pretrial conference by Zoom, counsel shall contact the Courtroom Deputy by Tuesday, September 26, 2023, to request the video conference link.

All counsel who have entered an appearance on behalf of a party in one of the actions consolidated into MDL 3073 may appear for the initial pretrial conference. Not all counsel who have entered an appearance need participate in the initial pretrial conference; rather, parties with

similar interests may and are encouraged to agree to be represented at the initial pretrial conference by a single attorney. However, the Court will later entertain motions for appointment as lead counsel **only** from counsel who, among other requirements, participated in the initial pretrial conference.

All counsel are expected to familiarize themselves with the Manual for Complex Litigation, Fourth, and be prepared at the initial pretrial conference to suggest procedures that will facilitate the expeditious, economical, and just resolution of this litigation.

In advance of the initial pretrial conference, counsel for all involved parties shall meet, confer, and seek consensus on a jointly proposed agenda for the initial pretrial conference. **The parties shall file in MDL 3073 a “Joint Proposed Agenda for the Initial Pretrial Conference” by September 18, 2023.** The parties’ **Joint Proposed Agenda** shall include the following:

- a. A proposed discovery plan, including an estimated timeline for completing fact discovery, including expert discovery and a general plan for electronically-stored information, in less than 15 months;
- b. Any motions anticipated and a proposed timetable for filing and briefing;
- c. A list of companies and counsel associated with the party (to assist the Court in addressing any recusal or disqualification questions);
- d. A list of any pending motions that were filed before consolidation into MDL 3073, and the case name under which the motion was originally filed;
- e. A recommendation for counsels’ leadership structure, the need for any steering committee and/or any liaison and/or any coordinating counsel;

f. A recommendation for a reasonable deadline by which the Court should require any counsel interested in a leadership position to file his or her motion for appointment;² and

g. A list of any issues or questions presented by MDL 3073 not otherwise within the scope of the proposed agenda items listed above.

11. In addition to the Joint Proposed Agenda described above, each side shall submit to the Court by email through the Courtroom Deputy at Tracy_Diefenbach@mow.uscourts.gov a **Preliminary Report**. Plaintiffs shall collectively submit one Preliminary Report. Defendants shall collectively submit one Preliminary Report. **The Preliminary Report should be emailed to the Court only and will be reviewed in chambers and kept confidential. Counsel need not provide a copy of the same to opposing counsel because the Preliminary Reports are for internal chambers purposes only.**

By **12:00 p.m. CST on Friday, September 22, 2023**, counsel for Plaintiffs and counsel for Defendants shall email to the Court their respective Preliminary Reports, containing a concise

² For purposes of the initial pretrial conference, the parties need only propose a deadline by which any interested counsel should file his or her motion for appointment to a leadership position. To assist the parties in offering a proposed deadline for which interested counsel should file their motions for appointment to a leadership position, the Court will consider the following factors in appointing lead or leadership counsel: counsel's willingness and ability to commit to a time-consuming process, counsel's ability to work cooperatively, any professional experience in litigation of this type, existing access to resources to advance the litigation in a timely manner, and contribution to a leadership team that adequately reflects the diversity of legal talent available and the requirements of the case and *achieves diversity pertaining to gender, national origin, geography, years of practice, age, and other factors.*

written report indicating their preliminary understanding of the facts involved in the litigation and what they expect to be the critical factual and legal issues. The Preliminary Report should not be used to argue the party's case or to present all possible legal theories. Instead, the parties should apprise the court of the case and current issues affecting trial preparation. **These statements will not be filed with the Clerk of the Court, will not be binding, will not waive other claims or defenses, may not be offered in evidence against a party in later proceedings, and should not be presented as argument.** Accordingly, it is hereby

ORDERED this matter is set for an initial pretrial conference on **Friday, September 29, 2023 at 10:00 a.m. CST**. If counsel would seek to appear for the initial pretrial conference by Zoom, counsel shall contact the Courtroom Deputy to request a video conference link not later than September 26, 2023. It is further

ORDERED discovery is STAYED until further order of this Court. It is further

ORDERED **the parties shall file, after seeking consensus through the meet and confer process, a "Joint Proposed Agenda for the Initial Pretrial Conference" by September 18, 2023.** It is further

ORDERED Plaintiffs and Defendants shall each email to the Court through Tracy_Diefenbach@mow.uscourts.gov not later than **12:00 p.m. CST on Friday, September 22, 2023, a Preliminary Report**. The Court anticipates one Preliminary Report per side. The Preliminary Report shall be concise, shall be submitted to the Court only by email, shall be kept confidential, and shall be used only for internal chambers purposes.

IT IS SO ORDERED.

DATE: August 25, 2023

/s/ Brian C. Wimes
JUDGE BRIAN C. WIMES
UNITED STATES DISTRICT COURT

KCMBA Principles of Civility

Preamble: To promote a high level of professionalism, courtesy and to improve professional relationships within and throughout the Kansas City metropolitan legal community, the Kansas City metropolitan Bar Association hereby adopts the following Principles of Civility. Lawyers acting with civility are more effective and achieve better outcomes, build better reputations, and foster respect and professionalism, which breeds job satisfaction. Incivility makes legal matters more difficult to resolve, increases costs, wastes time and resources, and undermines public confidence in the legal system. Thus, we not only encourage, but promote civility among the legal profession and agree to abide by the following Principles of Civility.

1. Civility and professionalism is essential to the operation of our legal system, and this goal can only be achieved when all participants, (lawyers, judges, court personnel, litigants, etc.) adhere to the principles of civility and professionalism.

2. Communicate professionally and respectfully.

Comment: Consideration should be given to the nature and tone of all communication including phone calls, written letters as well as electronic media, emails texts, and social media outlets. Direct and open communication serves to manage expectations and reduces the time and resources required to resolve a matter. Lawyers should refrain from disrespectful communications or disparaging personal remarks. Lawyers should refrain from creating an unnecessary sense of urgency for response; however, inquiries and communications should be made promptly as a matter of professional courtesy. Unless permitted or invited by the court, communications between lawyers should not be sent to the court.

3. Never deceive another.

Comment: This Principle is not intended to restrict aggressive expression of opinions helpful to a client but is directed against affirmative misrepresentations by lawyers or their staff to others while representing the interests of a client. This Principle does not suggest any obligation (separate from that imposed by existing ethical canons, laws, or discovery rules) for disclosure.

4. Honor promises and commitments.

Comment: The Principle seeks to avoid a cavalier attitude toward breaking commitments without good cause. A lawyer's word is a bond upon which others rightfully rely.

5. Respect others' time, schedule, and resources.

Comment: Lawyers should work cooperatively in scheduling all matters, considering the time commitments, schedule, resources, and well-being of themselves, and opposing counsel, parties, the court, witnesses, and all others involved in the legal process. Events requiring opposing counsel including depositions, hearings, meetings, and conferences, should be scheduled by agreement of all interested persons whenever possible. Cooperative scheduling results in fewer conflicts and

avoids unnecessary expenditures of time and expense. Reasonable requests for extensions of time and/or for waiver of procedural formalities should be permitted when the legitimate interests of the client will not be adversely affected. Lawyers and judges should be mindful that use of technology helps to reduce time, cost, and resources expended. The law and some courts allow for virtual appearances, but such advancements in technology should not hinder or impact professionalism and preparedness for these appearances.

6. Avoid unfounded and unreasonable attacks on lawyers and the judiciary.

Comment: Lawyers are encouraged to defend and promote the legal system and the judiciary. Never file or threaten to file an ethical complaint, seek sanctions against or disqualification of an attorney or judge solely for the purpose of obtaining a tactical advantage or any other improper purpose. When motions for sanctions of disqualification are necessary, they should identify the prior reasonable attempts to confer and resolve the dispute at issue and be supported by sufficient evidence.

7. Respect the well-being of yourself and others.

Comment: The legal profession is known to fall short when it comes to well-being. Studies have shown that an overwhelming number of lawyers and law students are experiencing chronic stress and high rates of depression and substance abuse. Well-being is an indispensable part of a lawyer's duty of competence and lawyers need to work towards increasing greater well-being in the profession. Lawyers should be mindful of and respect their own, and others', health, and state of mind, as well as family obligations, including but not limited to family leave, childcare, and life commitment.

8. Refrain from conduct that manifests or causes prejudice or bias, implicit or explicit, based on a person's attributes.

Comment: Adherence to the principles of civility requires lawyers and the judiciary to respect diversity in all forms and to uniformly honor these rules of civility without discrimination, bias, or prejudice, and with equal dignity. Biases, conscious and unconscious, manifest in many ways and have varying consequences when we judge or treat others based upon inaccurate stereotypes and assumptions about identities, cultures, race, and ability. We should embrace such attributes as unique identities, ethnicities, race, religion, sex, sexual orientation, gender expression, physical and mental abilities, and socioeconomic status, with dignity and respect. We shall make a deliberate effort to recognize and reduce the impact of our own biases, as well as the biases of others in the profession.