

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

MELANIE TADO,

Plaintiff

v.

TIKTOK INC., et al.,

Defendants.

CASE NO.: 1:23-cv-01430

AGREED MOTION TO STAY PROCEEDINGS PENDING JPML RULING

Plaintiff Melanie Tado (“Plaintiff”) and Defendants TikTok Inc. and ByteDance Inc. (collectively, “Defendants”) (together with Plaintiff, “the Parties”), by and through their respective counsel of record, hereby submit this agreed motion to stay all proceedings and deadlines in this action pending resolution of proceedings before the United States Judicial Panel on Multidistrict Litigation (“JPML”) that, as discussed further herein, may affect the venue in which this case shall proceed.

1. Plaintiffs filed a Complaint in the above-captioned action on March 3, 2023 (“*Tado* action”).

2. On March 10, 2023, Defendants filed a Notice of Tag-Along Action in *In re TikTok, Inc., Consumer Privacy Litigation*, No. 1:20-cv-04699 (N.D. Ill.) (ECF No. 292) (“Tag-Along Notice”). Defendants’ Tag-Along Notice identifies this *Tado* action as a potential tag-along action to an existing MDL proceeding in this District, *In re TikTok, Inc., Consumer Privacy Litigation* (**MDL No. 2948**), which is currently pending before the Honorable Chief Judge Pallmeyer. Defendants’ Tag-Along Notice seeks to have this action reassigned and consolidated with MDL No. 2948.

3. Defendants have similar notices in sixteen related cases across the country (including the Central District of California, the Southern District of New York, the Eastern District of Pennsylvania, the Northern District of Georgia, and the District of New Jersey).

4. In addition to the pending proceedings in MDL No. 2948, a plaintiff in one of the related cases, *Recht v. TikTok, Inc.*, No. 2:22-cv-08613 (C.D. Cal. Nov. 25, 2022), filed a motion on December 15, 2022, to consolidate the *Recht* action and other related cases into a new MDL in the Central District of California: *In re TikTok In-App Browser Consumer Privacy Litigation (MDL No. 3067)*. Briefing on that motion is now completed.

5. Whereas, the JPML has set a hearing on the competing motions in MDL Nos. 2948 and 3067 for March 30, 2023, and the parties anticipate a decision shortly thereafter.

6. In light of the pending proceedings in MDL Nos. 2948 and 3067, which may affect the venue in which this case will proceed, the Parties agree that all proceedings and deadlines in the present case should be stayed until the JPML has made a decision on transfer or consolidation of this action.

7. Indeed, courts in the related cases have consistently granted the stay requested here. For example, Chief Judge Pallmeyer has stayed all MDL proceedings in this District pending “potential rulings from the JPML.” Minute Entry, *In re TikTok, Inc., Consumer Priv. Litig.*, No. 1:20-cv-04699 (N.D. Ill. Jan. 17, 2023), ECF No. 285. And other judges in this District have granted materially identical requests in related actions. *See, e.g., Smith v. TikTok Inc.*, No. 1:23-cv-00134 (N.D. Ill. Jan. 31, 2023), ECF No. 12 (Durkin, J.); *Bravo v. TikTok Inc.*, No. 1:23-cv-00225 (N.D. Ill. Mar. 3, 2023), ECF No. 9 (Pacold, J.); *Rahn v. TikTok Inc.*, No. 1:22-cv-07256 (N.D. Ill. Feb. 21, 2023), ECF No. 15 (Guzman, J.); *Murphy v. TikTok Inc.*, No. 1:23-cv-00504 (N.D. Ill. Feb. 8, 2023), ECF No. 9 (Chang., J.).

8. As federal courts sitting in Illinois have routinely recognized, a brief stay pending resolution of JPML proceedings is “warranted” to “preserv[e] judicial resources and avoid[] duplicative efforts.” *Walter v. Monsanto Co.*, 2019 WL 13223281, at *1-2 (N.D. Ill. Oct. 30, 2019) (granting motion to stay proceedings “pending the JPML’s transfer ruling”); *Paul v. Aviva*

Life & Annuity Co., 2009 WL 2244766, at *2 (N.D. Ill. July 27, 2009) (likewise granting stay pending JPML proceedings); *see also Evans v. Pfizer, Inc.*, 2022 WL 17105993, at *1 (S.D. Ill. Nov. 22, 2022) (granting “parties’ joint request for a stay so the parties could negotiate an appropriate forum for this case”).

9. As the Court in *Paul* noted, “[i]n deciding whether to grant a stay pending the JPML decision to transfer a case to an MDL, courts consider: (1) whether judicial economy favors a stay; (2) the potential prejudice to the non-moving party; and (3) any hardship or inequity to the moving party if the case is not stayed.” 2009 WL 2244766, at *1. The first factor, judicial economy, favors a stay in these circumstances because permitting the case to proceed to motion practice would “run the risk of expending valuable judicial resources familiarizing [our]self with the intricacies of a case that may be coordinated or consoli[dated] for pretrial purposes in another court.” *Id.* The second factor likewise favors a stay because any delay is “brief.” *Id.* And the third factor, the hardship or inequity faced by the moving party, favors a stay because the parties could “be faced with conflicting decisions on similar pre-trial issues” and forced “to participate in duplicative discovery” if the stay is not granted. *Id.* at *2.

10. All three factors weigh in favor of staying this case pending further order of the JPML. In further support of this agreed motion, the Parties will submit by email to this Court a proposed order granting the relief requested in this motion.

* * *

WHEREFORE, the Parties, through their undersigned counsel, hereby agree and respectfully request that the Court order as follows:

1. All proceedings and deadlines, including but not limited to the requirement for any party to file a pleading, responsive pleading, or motion under Federal Rules of Civil Procedure 8, 9, 12, or 23 shall be STAYED in this action pending further order of this Court.

2. If the JPML issues an order transferring this action to a different court, or if this action is otherwise consolidated or reassigned before another Judge in this District, the transferee court or judge may lift the stay in its discretion. If the JPML issues an order deciding

not to transfer this action to another court, the Parties shall within 14 days of such decision submit a joint status report to this Court with a schedule for Defendants to respond to the Complaint.

3. The Parties reserve all other rights, including but not limited to, any Defendant's ability to object to issues related to service and/or jurisdiction.

Dated: March 20, 2023

Respectfully submitted,

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Dated: March 20, 2023

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Counsel for Defendants

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on March 20, 2023, the foregoing was caused to be filed with the Court by electronic filing protocols, and that same will therefore be electronically served upon all attorneys of record registered with the Court's ECF/CM system.

By: /s/ Samantha A. Machock
Samantha A. Machock