

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE: SAMSUNG CUSTOMER DATA
SECURITY BREACH LITIGATION

1:23-md-03055

**AMENDED INITIAL CASE
MANAGEMENT ORDER**

This Document Relates To: All Actions

THESE MATTERS having been transferred to this Court by order of the Judicial Panel on Multidistrict Litigation (the “Panel”) pursuant to its order of February 1, 2023, merit special attention as complex litigation, and thus the Court enters the following Order:

1. SCOPE OF ORDER

This Order shall govern the practice and procedure of those actions transferred to this Court by the Panel pursuant to its Transfer Order of February 1, 2023, (ECF No. 1), any “tag-along actions” transferred to this Court by the Panel pursuant to the Panel’s Rules of Procedure, and all related actions that have been or will be originally filed in, transferred to, or removed to this Court and assigned hereto. This Order and all subsequent Case Management Orders shall be binding on all parties and their counsel in all cases currently pending or subsequently transferred to *In re: Samsung Customer Data Security Breach Litigation*, and shall govern each case in the proceedings unless the Order explicitly states that it does not apply to specific cases or that it applies only to specific cases.

2. CONSOLIDATION

The civil actions transferred to this Court or related to the actions already pending before this Court are consolidated for pretrial purposes. Any “tag-along actions” transferred to this Court, or directly filed in the District of New Jersey, will automatically be consolidated with this action without the necessity of future motions or orders. This consolidation does not constitute a determination that the actions should be consolidated for trial, nor does it have the effect of making any entity a party to any action in which he, she, or it has not been named, served, or added in accordance with the Federal Rules of Civil Procedure.

3. MASTER DOCKET FILE

The Clerk of the Court will maintain a master docket case file under the style “*In re: Samsung Customer Data Security Breach Litigation*” and the docket number 23-md-03055 CPO-EAP.¹ When a pleading is intended to apply to all actions, this shall be indicated by the words: “This Document

¹ The Clerk of the Court shall continue to maintain a separate civil action number and case file for each case filed in, removed to, or transferred to the Court.

Related to: ALL ACTIONS.” When a pleading is intended to apply to fewer than all cases, the Court’s docket number for each individual case to which the document number relates shall appear immediately after the words: “This Document Relates To.” The Following is a sample of the pleading style:

IN RE: SAMSUNG CUSTOMER DATA
SECURITY BREACH LITIGATION

1:23-md-03055 (CPO-EAP)
(MDL 3055)

This Document Relates To:

4. FILING

Each attorney of record is obligated to become a District Court of New Jersey ECF User and be assigned a user ID and password for access to the system. If he or she has not already done so, counsel shall register as an ECF User and be issued an ECF User ID and password. Forms and instructions can be found on the Court’s website <http://www.njd.uscourts.gov/>. All documents shall be e-filed in the master file, 23-md-03305. Documents that pertain to one or only some of the pending actions shall be e-filed in the individual case(s) to which the document pertains.

5. APPEARANCES

Counsel who appeared in a transferor court prior to transfer need not enter an additional appearance before this Court. Moreover, attorneys in “tag-along actions” admitted to practice and in good standing in any United States District Court are admitted *pro hac vice* in this litigation, and the requirements of Local Civil Rule 101.1(c) are waived. Such counsel are subject to the New Jersey Rules of Professional Conduct, the Guidelines for Litigation Conduct, Local Civil Rule 103.1(c), and the disciplinary jurisdiction of this Court. Association of local counsel is not required.

6. LEAD COUNSEL

The Court appoints James E. Checchi, Esquire as interim lead counsel for Plaintiffs. By March 23, 2023, lead counsel shall provide the Court with Plaintiffs’ proposal for an appropriate leadership structure.

The Court will exercise the power of appointment and approval of members of the leadership fairly, transparently, and on the basis of merit. All appointments are of a personal nature. The Court desires to appoint individuals, not firms, who have the time and resources available to effectuate the just and efficient resolution of this litigation. All leadership appointments are for a period of one (1)

year. Each appointee must request reappointment for continued service thereafter.

The Court is committed to the diversity of MDL leadership. Given the multitude of claims in this MDL from diverse Plaintiffs across the country, diverse leadership is integral to the success of these proceedings. The Court also seeks to develop the future generation of diverse MDL leadership by providing competent candidates with opportunities for substantive participation now. It will make a conscious effort to avoid implicit bias and not overlook qualified applicants based on race, color, gender, sexual orientation, age, or geography. Thus, the Court expects the proposed leadership structure be reflective of these goals.

The submission of the proposed leadership structure shall include the following:

- Describe who shall be designated as Liaison Counsel, who will be expected to:
 - a. Act as the primary contact between the Court and Plaintiffs' counsel;
 - b. Maintain an up-to-date, comprehensive Service List of Plaintiffs and promptly advise the Court and defense counsel of changes to Plaintiffs' Service List;
 - c. Receive and distribute to Plaintiffs' counsel, as appropriate, orders, notices, and correspondence from the Court, to the extent such documents are not electronically filed;
 - d. Receive and distribute to Plaintiffs' counsel, as appropriate, discovery, pleadings, correspondence, and other documents from defense counsel that are not electronically filed;
 - e. Establish and maintain a document depository;
 - f. Maintain and make available to co-counsel at reasonable hours a complete file of all documents served by or upon each party;
 - g. Assist Lead Counsel in resolving scheduling conflicts among the parties and coordinating activities, discovery, meetings, and hearings;
 - h. Maintain a file-endorsed copy of this Order, and serve the same on the parties and/or their attorneys in any actions later instituted in, removed to, or transferred to, these proceedings;
 - i. Maintain records of receipts and disbursements advanced by members of the Leadership and received by the Leadership, and report in writing concerning disbursements and receipts;
 - j. Act as the treasurer for any common benefit assessments and expenses; and
 - k. Perform such other functions necessary to effectuate these responsibilities or as may be expressly authorized by further orders from the Court.

- Describe each proposed applicant's MDL, class action, and complex litigation experience generally and in data breach and privacy cases specifically. For each attorney, list each Court-appointed leadership position in any MDL or class action case in which they have previously been or are currently involved. Please provide case citations as well as the names and contact information for judges or Special Masters who have overseen or are currently presiding over the attorney's cases. For any MDL or class action in which an attorney is currently involved, please describe the current status of the litigation in the next year.
- Indicate how you plan to fund the case including whether you anticipate any third-party funding and if so, from whom and describe the amount of control the funder(s) will have over the litigation strategy and settlement decisions.
- Describe what procedures will be used to monitor billing, control costs, and avoid duplication of efforts of counsel and the process for assignment and monitoring of work.
- Describe how you propose to maintain communication and input from lawyers not part of the leadership structure.

7. INITIAL CONFERENCE

The Court will conduct an Initial Case Management Conference on **April 6, 2023**, at 10:00 a.m. in Courtroom 5A, Mitchell H. Cohen Courthouse, 4th and Cooper Streets, Camden, NJ 08101. Not all parties are required to attend; rather parties with similar interests are expected to the extent practicable to agree on a single attorney to act on their joint behalf at the conference. Designation of such an attorney to represent a party's interest does not preclude that party from other representation during the litigation. Attendance at the conference will not waive any objections to the jurisdiction, venue, or service. Persons or entities who are not named parties in this litigation but may later be joined as parties or who are parties in related litigation pending in other courts are invited to attend in person or through counsel. Counsel are expected to be prepared at the conference to suggest procedures that will facilitate the just, speedy, and inexpensive resolution of this litigation.

8. JOINT AGENDA AND STATUS REPORT

By **March 23, 2023**, the parties shall submit a joint agenda and status report to the Court. Before the conference, counsel shall meet and confer—in person, by teleconference or by video conference—and seek consensus to the extent possible with respect to joint agenda items including, but not limited to: Plaintiff Fact Sheet; Defense Fact Sheet; Enabling Order; privilege, preservation, and ESI issues; parameters for discovery; and a suggested schedule for proceedings.

The status report shall include the following:

- a. A List of all related actions pending in the state or federal Court and their current status, including any discovery taken to date, to the extent known; and
- b. Brief written statements—one by Plaintiffs and one by Defendants—not more than ten (10) pages each, indicating Plaintiffs’ and Defendants’ respective preliminary understanding of the facts involved in the litigation and the critical factual and legal issues. These statements will NOT be filed with the Clerk, will not be binding, will not waive claims or defenses, and may not be offered in evidence against a party in later proceedings.

9. SERVICE LIST

By **March 16, 2023**, interim lead counsel shall provide the Court with a list of attorneys and their office addresses, phone and fax numbers, and e-mail addresses.

A service list will be maintained by the Clerk of the Court during the course of this litigation by adding parties/attorneys to the master docket. Any attorney who wishes to have his/her name added or deleted from the master docket may do so upon request to the Clerk of this Court and notice to all other persons on such master docket.

10. PRESERVATION OF EVIDENCE

All parties and counsel are reminded of their duty to preserve evidence that may be relevant to this action, including ESI. The parties shall meet and confer in an effort to reach an agreement on a preservation plan for all cases and shall take reasonable steps to preserve all evidence that may be relevant to this litigation. Counsel, as officers of the Court, are obligated to exercise all reasonable efforts to identify and notify parties and non-parties, including employees of corporate or institutional parties, of their preservation obligations.

11. RESPONSE EXTENSION AND STAY

Defendants are granted an extension of time for responding by motion or answer to the complaints until a date to be set by this Court. All pending motions must be re-noticed for resolution once the Court sets a schedule for any such motions.

12. IDENTIFICATION OF RELATED CASES

The Court requests the assistance of counsel in calling to the attention of the Clerk of this Court the filing or transfer of any case that might properly be coordinated as part of this MDL, upon any party’s information and belief that the matter should be coordinated.

13. APPLICATION OF LOCAL RULES

Unless otherwise set forth in this Order, the parties shall comply with the Local Civil Rules of the United States District Court for the District of New Jersey, as well as the individual rules and preferences of the District Judge and Magistrate Judge assigned to this matter.

IT IS SO ORDERED.

/s/ Christine P. O'Hearn
United States District Judge

Dated: February 27, 2023

cc: Honorable Elizabeth A. Pascal, U.S.M.J.