

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: VERTRUE MARKETING)	CASE NO. 09-vm-75000
and SALES PRACTICES LITIGATION)	
)	(MDL Docket No. 2044)
)	
)	<u>Practice and Procedure Order and</u>
)	<u>Notice of Case Management</u>
)	<u>Conference</u>
)	
)	JUDGE PATRICIA A. GAUGHAN
)	

- This Order, issued pursuant to 28 U.S.C. §1407(a), shall govern the practice and procedure in: (1) those actions transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to its order of **June 10, 2009**; and (2) all related cases originally filed in this Court or transferred or removed to this Court. These cases are listed in Schedule A, attached, and are coordinated for pretrial purposes.
- This Order shall also govern the practice and procedure in: (1) any tag-along actions transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to

Rule 1 of the Rules of Procedure of that Panel, subsequent to the filing of the final transfer order by the Clerk of this Court; and (2) any related actions subsequently filed in this Court or otherwise transferred or removed to this Court.

- A signed original of any pleading or paper shall be filed; no copies are necessary. All papers filed in these actions shall bear the identification “**MDL Docket No. 09-vm-75000**,” and when the paper relates to all these actions, the MDL docket number shall be followed only by the notation “ALL CASES.” If the paper does not relate to all of these actions, then the individual docket number assigned by the Clerk of this Court (as listed in Schedule A) of those actions to which the paper relates shall also be listed.
- Unless otherwise ordered by the Court, initial disclosures, discovery depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Court, except that discovery materials may be filed as evidence in support of a motion or for use at trial.
- Any paper filed in any of these actions shall be filed with the Clerk of this Court and not with the transferor district court.
- Counsel who appeared in the transferor district court prior to the transfer need not enter a separate appearance before this Court.

- Prior to the case management conference, counsel for each group of parties whose interests are similarly aligned shall designate liaison counsel no later than **August 3, 2009**, subject to approval of the Court. Liaison counsel shall be authorized to receive orders and notices from the Court on behalf of all parties within their liaison group, and shall be responsible for the preparation and transmittal of copies of orders and notices to the parties in their liaison group. Liaison counsel shall maintain complete files, with copies of all documents served upon them, and shall make those files available to parties within their liaison group. Liaison counsel are also authorized to receive orders and notices from the Judicial Panel on Multidistrict Litigation, pursuant to Rule 8(e) of the Panel's Rules of Procedure, on behalf of all parties within their liaison group, and shall be responsible for the preparation and transmittal of copies of orders and notices to the parties in their liaison group.
- Upon remand of any of these actions, the parties will be required to provide to this Court copies of any necessary and relevant papers previously filed.
- No parties to any of these actions shall be required to obtain local counsel in this district, and the requirements of Local Rule 83.5 are waived as to any attorney appearing in these actions who is duly admitted to practice before any United States Court.

- Hearings shall not be held on any motions filed, except by order of the Court.
- Where counsel for more than one party plan to file substantially identical papers, they shall join in the submission of those papers and shall file only one paper on behalf of all so joined.
- Any orders, including protective orders, previously entered by this Court or any transferor district court shall remain in full force and effect, unless expressly vacated by subsequent order of this Court.
- All discovery proceedings in these actions are stayed until further order of this Court. The time requirements to perform any act or file any papers, pursuant to Rules 26 through 37, Federal Rules of Civil Procedure, are tolled until the case management conference, at which time a discovery schedule will be established. In addition, dates for filing responsive pleadings are stayed until the case management conference.
- The Court will be guided by the Manual for Complex Litigation—Third, approved by the Judicial Conference of the United States, and counsel are directed to familiarize themselves with that publication.
- **All other matters will be discussed at the case management conference, to be held on Wednesday, August 26, 2009, at 9:00 a.m.** Lead counsel for all parties must

participate, or submit a written statement granting decision-making authority to proposed liaison counsel. The case management conference will be held by telephone with the Court initiating the call. Liaison counsel must provide the telephone numbers of all participating counsel three days prior to the conference.

- Lead counsel will confer before the case management conference to develop a proposed case management plan and to create an agenda for the conference. **Counsel will submit this agenda to the Court on or before Wednesday, August 20, 2009.**

Among other things, counsel should discuss (and include on the agenda) the following:

- (1) the feasibility of consolidating all or groups of actions or designating for consolidated treatment issues applicable to all or groups of actions;
- (2) the propriety of dismissing duplicative actions;
- (3) whether this case is or may become suitable for reference to an Alternative Dispute Resolution (ADR) program;
- (4) appropriate deadlines for amendment of pleadings, non-expert discovery, expert reports, expert discovery, and dispositive motions; and
- (5) the scope of discovery.

- The Court hereby instructs the parties to identify and inform the Court of any other related actions pending in state or federal courts.

- The parties are notified that this case will be placed on the Court's Electronic Filing System.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 6/29/09

SCHEDULE A

Northern District of Ohio

Preston Smith, et al. v. Vertrue, Inc., et al., C.A. 1:09-367; MDL Case No. 09-vm-75001

District of Connecticut

Michael Waslin v. Vertrue Inc., et al., C.A. No. 3:09-106; MDL Case No. 09-vm-75002

Southern District of California

Phyllis Callahan v. Vertrue Inc., et al., C.A. No. 3:09-236; MDL Case No. 09-vm-75003