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Hotel Brand Sex-Trafficking Litigation Update: Consolidation Denied

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Sex trafficking is a difficult problem for society that defies easy solutions, as the judicially recognized constitutional right to privacy in hotel rooms clashes with the reality of criminal exploitation of innocent victims. On February 5, 2020, the United States Judicial Panel on Multidistrict Litigation (JPML) rejected a bid by certain plaintiffs to consolidate a number of sex-trafficking lawsuits into a Multidistrict Litigation. This ruling has significant implications on the cases themselves moving forward and could signal a similar response in similar lawsuits to come.

The Current Litigation

The plaintiffs in these cases are a number of alleged victims of sex-trafficking that they claim occurred at one or more hotels throughout the country. These plaintiffs are seeking relief under a variety of legal theories, but most commonly under the federal Victims of Trafficking and Violence Protection Act of 2000 (TVPRA). The plaintiffs contend that defendants (including a mix of hotel brand franchisors, hotel franchisees, individual hotel owners and operators, among others) participated in, and knowingly financially benefitted from, the alleged trafficking by allowing these practices to occur at their hotels. Plaintiffs seek both monetary and injunctive relief.

There are currently many such cases pending in various state and federal courts throughout the country. However, counsel for the plaintiffs in these 17 cases have suggested to defense counsel that the number of anticipated cases is much higher.

The Effort to Consolidate

In an effort to have all of the pending and future sex-trafficking cases transferred to a single venue, on December 9, 2019, a number of plaintiffs filed a motion to consolidate the cases. Though several courts were proposed, plaintiffs named the Federal District Court for the Southern District of Ohio in Cincinnati as their preferred venue.

In support of consolidation, the plaintiffs argued the case had numerous similarities, including comparable alleged failures on the part of defendants to curtail trafficking, defendants' knowledge of trafficking at these specific hotels and at hotels generally, and defendants' alleged benefits derived from that trafficking. The plaintiffs also stressed their common claim for relief under the TVPRA and the significant burden associated with litigating many different lawsuits.

The defendants, meanwhile, largely opposed centralization, with the majority arguing that consolidation of these cases would be inappropriate given the significant factual differences among the cases. Two anti-sex trafficking organizations also participated in the hearing and filed amicus briefs. One organization supported centralization, and one opposed.

The JPML's Ruling

While recognizing the severity of plaintiffs' allegations, the JPML nevertheless found their arguments in furtherance of consolidation unconvincing. The JPML noted significant differences among the currently pending and potential future actions, including (1) different hotels, (2) different hotel brands, (3) different

franchisees and hotel owners, (4) different employees, (5) different geographic locales, (6) different witnesses, (7) different indicia of sex trafficking, (8) different time periods of the trafficking, and (9) a distinct lack of party homogeneity across the pending actions. The JPML stressed that consolidation is appropriate where there is sufficient commonality of facts, and the unique issues concerning each plaintiff in these cases were simply too profound to overcome any superficial similarities. Not even the cases' common legal issues and significant number of potential actions could justify consolidation.

Effect on Current and Future Litigation

Ultimately, the JPML found that these cases involve crucial factual differences that should not be glossed over. The JPML's ruling also implicitly acknowledges that the various defendants involved cannot be treated ubiquitously. These cases can now proceed individually in their original venues, with discovery appropriately tailored to reach the specific issues in each case.

Nevertheless, the JPML's recognition of the severity of these claims, the number of potential claims, and the ripeness of informal coordination reflect that these cases are a significant concern for the hotel industry while it works on addressing the underlying problem. The impetus behind these claims is growing and the essence of plaintiffs' allegations reach far beyond the hotel industry. This ruling could have significant implications on future efforts to consolidate cases involving similar allegations in a number of different industries.

For questions about this update, please contact [Sara Turner](#) or any of the attorneys on Baker Donelson's [Hospitality, Franchising and Distribution Team](#).