

[Banking and Finance Law Daily Wrap Up, TOP STORY—N.D. Fla.: Subject of CFPB subpoena in case against credit repair company seeks transfer, \(Sept. 11, 2020\)](#)

Banking and Finance Law Daily Wrap Up

[Click to open document in a browser](#)

By Nicole D. Prysby, J.D.

A marketing partner of a telemarketing center sued by the Bureau seeks to transfer the Bureau's motion to compel production to the federal district court in Utah where the underlying litigation is proceeding.

OLP.com, Inc. is seeking to transfer a motion to compel production filed by the Consumer Financial Protection Bureau from a federal district court in Florida to the federal district court in Utah where the action underlying the motion to compel is being heard. The production dispute relates to a lawsuit filed by the Bureau against Progrexion Marketing, Inc. OLP is a marketing partner of Progrexion that live-transferred consumers to Progrexion's telemarketing call centers. OLP failed to fully comply with the subpoenas issued by the Bureau and the Bureau moved to compel production. OLP argued in its [initial response](#) that the motion should be transferred from the Florida court to the Utah court where the Bureau's case against Progrexion is being heard, because the Utah court is better positioned to resolve relevancy objections raised by OLP in response to the [subpoena](#). In addition, some of the recordings sought from OLP relate to a law firm defendant in the underlying action and the Utah court is uniquely positioned to address any privilege claims the law firm may choose to assert. OLP also sought an extension of time to file a substantive response to the Bureau's motion to compel.

The Bureau sued Progrexion, alleging that it violated the Telemarketing Sales Rule and the Consumer Financial Protection Act during the course of marketing, selling, and providing credit repair products and services (see [Banking and Finance Law Daily](#), May 3, 2019). The complaint alleged that Progrexion participated in the deceptive and unlawful marketing activities of certain marketing partners (Hotswap Partners) that live-transferred consumers to Progrexion's telemarketing call centers. The Hotswap Partners market credit products and services to consumers, which were used as the entry point to Progrexion's credit repair marketing program. OLP is one of Progrexion's largest Hotswap Partners and in January 2020, the Bureau issued a subpoena to OLP requesting documents related to its business activities and marketing relationship with Progrexion. OLP failed to fully respond to the subpoena and the Bureau motioned to compel production (see [Banking and Finance Law Daily](#), August 26, 2020).

OLP did not file a substantive response to the Bureau's motion, but filed an "initial response" arguing that the Florida court should transfer the motion to the federal district court in Utah. OLP cited disagreements between the Bureau and Progrexion regarding the scope of any information that the Bureau should be allowed to seek and obtain from third-parties such as OLP. Given those disagreements, OLP asserted, it is unclear if the subpoena complies with any agreements the Bureau may have reached with the Progrexion defendants. Some of OLP's live-transfers related to a law firm, Lexington Law. OLP argued that the issue of whether it should be required to turn over its telephone recordings to the Bureau directly implicates the interests of Lexington Law who is not before the Florida court and is unlikely to be subject to its personal jurisdiction. Lexington Law is a party to the underlying litigation and, therefore, the district court in Utah appears uniquely positioned to address any privilege claims the law firm may choose to assert. Also, the Utah court apparently continues to have to preside over ongoing disputes and disagreements between the parties to the litigation regarding the proper scope of permitted discovery, including discovery directed to third parties such as OLP. The Utah court is therefore better positioned to resolve any relevancy objections raised by OLP in response to the subpoena.

OLP also requested that the court should extend the time for it to further respond to the Bureau's motion, as it intends to provide a substantive response supporting its objections.

Companies: OLP.com, Inc.; Progrexion Marketing, Inc.

MainStory: TopStory CFPB ConsumerCredit EnforcementActions Loans Mortgages