

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS (MERS) LITIGATION**

The Bank of New York Mellon Trust Co., N.A. v.)	
Todd Williams, N.D. Georgia, C.A. No. 1:13-00901)	
Todd Williams v. GMAC Mortgage LLC, S.D. New York,)	MDL No. 2119
Bky. Adv. No. 1:13-01309)	

ORDER DENYING TRANSFER

Before the Panel: Pursuant to 28 U.S.C. § 1407(c), Todd Williams (Williams), *pro se*, seeks transfer of two actions to which he is a party – an eviction action removed from state court to the Northern District of Georgia and a Southern District of New York Bankruptcy Court adversary proceeding related to a residential mortgage transaction – to the District of Arizona for inclusion in MDL No. 2119. All responding parties¹ oppose transfer.

The actions in the centralized proceedings concern the formation and/or operation of the MERS system, an electronic mortgage registration system and clearinghouse that tracks beneficial ownership interests in, and servicing rights to, mortgage loans. *See In Re: Mortgage Electronic Registration Systems (MERS) Litig.*, 659 F.Supp.2d 1368 (J.P.M.L. 2009). Plaintiffs in MDL No. 2119 are current or former homeowners who allege, *inter alia*, that the members and/or shareholders of MERSCORP, Inc., and its subsidiary MERS conspired to establish the MERS system as a means by which to intentionally hide from homeowners the true identity of the actual beneficial owners of negotiable promissory notes. *Id.* Our practice in this docket has been to separate and simultaneously remand claims unrelated to the formation and/or operation of the MERS system (e.g., claims regarding loan origination and/or collection practices) to the respective transferor courts. *Id.* No action remains pending in this MDL after the transferee judge, the Honorable James A. Teilborg, granted defendants’ various motions to dismiss, though the docket remains open pending various appeals to the Ninth Circuit.

After considering all argument of counsel, we find that these actions do not share sufficient questions of fact with the previously centralized actions to warrant inclusion in MDL No. 2119. While the actions may share some general background questions of fact regarding the operation of the MERS system, there are important distinctions that weigh against including them in MDL No. 2119. Most importantly, Williams’ claims focus on specific aspects of the underlying residential mortgage transaction and subsequent events that led to foreclosure and possible eviction from the property at issue. In

¹ GMAC Mortgage, LLC; Homecomings Financial Network, Inc., and Homecomings Financial, LLC; Mortgage Electronic Registration Systems, Inc. (MERS); The Bank of New York Mellon Trust Company, N.A., and The Bank of New York Mellon Trust.

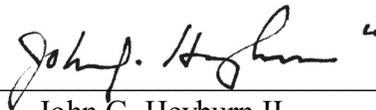
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contrast, the MDL plaintiffs' involve primarily the formation and operation of the MERS system. We are persuaded that the actions now before us contain too many specific allegations pertaining only to Williams to benefit from transfer to MDL No. 2119.

We also are persuaded that there are insufficient efficiencies to be gained (in terms of reducing duplicative discovery and motion practice) by adding these actions to the MDL, which is in its final stages. Should the need arise, we encourage the parties to employ alternatives to transfer to minimize the possibility of duplicative discovery and inconsistent pretrial rulings. *See, e.g., In re Eli Lilly and Co. (Cephalexin Monohydrate) Pat. Litig.*, 446 F.Supp. 242, 244 (J.P.M.L. 1978); *see also Manual for Complex Litig., Fourth*, § 20.14 (2004).

IT IS THEREFORE ORDERED that plaintiffs' motion for transfer, pursuant to Section 1407(c), is DENIED.

PANEL ON MULTIDISTRICT LITIGATION



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