

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: LIBOR-BASED FINANCIAL INSTRUMENTS
ANTITRUST LITIGATION**

MDL No. 2262

TRANSFER ORDER

Before the Panel: Plaintiff in the Northern District of Ohio action (*Cicchini Enterprises*) listed on the attached Schedule A moves under Panel Rule 7.1 to vacate our order conditionally transferring this action to the Southern District of New York for inclusion in MDL No. 2262. Responding defendants JPMorgan Chase & Co. and JP Morgan Chase Bank, N.A., oppose the motion.

In support of its motion to vacate, the *Cicchini Enterprises* plaintiff argues that its action was improperly removed. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present arguments regarding those issues to the transferee judge.¹ *See, e.g., In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001)

Plaintiff also argues that its action involves a primarily local transaction between an Ohio business and its local bank, and that the action does not involve any antitrust claims. These arguments are unconvincing. A review of the *Cicchini Enterprises* complaint demonstrates that the action shares multiple issues with actions already in the MDL concerning alleged manipulation of the London Interbank Offered Rate (Libor).² *See, e.g.,* Compl. ¶ 14 (“During the time that [plaintiff] was under the [derivative interest rate ‘swap’ agreement], JPMorgan and/or through their agents manipulated the LIBOR, which was utilized to calculate the payments.”); ¶ 17 (“JPMorgan’s collusion and conspiracy caused interest rates, specifically the LIBOR, to drop dramatically, which in turn caused [plaintiff’s] obligations under the swap agreement to grow.”).

Finally, plaintiff argues that it will be inconvenienced by transfer. This argument is unavailing, because, “in deciding issues of transfer under Section 1407, we look to the overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in

¹ Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

² *See In re: Libor-Based Fin. Instruments Antitrust Litig.*, 802 F. Supp. 2d 1380, 1381 (J.P.M.L. 2011) (describing the centralized actions as “shar[ing] factual issues arising from allegations concerning defendants’ participation in the British Bankers’ Association (BBA) London Interbank Offered Rate (Libor) panel,” including allegations that defendants manipulated Libor to their benefit).

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isolation.” See *In re: Watson Fentanyl Patch Prods. Liab. Litig.*, 883 F. Supp. 2d 1350, 1351-52 (J.P.M.L. 2012).

After considering the argument of counsel, we find that *Cicchini Enterprises* involves common questions of fact with actions previously transferred to MDL No. 2262, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. As explained above, the action plainly shares factual issues with actions already in the MDL.

IT IS THEREFORE ORDERED that the *Cicchini Enterprises* action is transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Naomi Reice Buchwald for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

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ANTITRUST LITIGATION**

MDL No. 2262

SCHEDULE A

Northern District of Ohio

CICCHINI ENTERPRISES, INC. v. JPMORGAN CHASE & CO., ET AL.,
C.A. No. 5:15-00422