

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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

George Maragos, in his official capacity as the Comptroller of the)
County of Nassau v. Bank of America Corporation, et al.,) MDL No. 2262
E.D. New York, C.A. No. 2:12-06294)

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiff in this action (*Maragos*) moves to vacate our order conditionally transferring the action to the Southern District of New York for inclusion in MDL No. 2262. JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively, JPMorgan) oppose the motion.¹

In opposing transfer, plaintiff argues, *inter alia*, that his action is not a class action, that it involves no federal law claims, and that we should defer a decision on transfer until (and unless) the Eastern District of New York court denies plaintiff's pending motion for remand to state court. We are not persuaded by these arguments. First, we routinely include individual and class actions in a single docket. *E.g., In re: Capital One Tel. Consumer Prot. Act Litig.*, — F. Supp. 2d —, 2012 WL 6554687 (J.P.M.L. Dec. 10, 2012) (centralizing 28 individual actions and three class actions). Second, in determining the propriety of Section 1407 transfer, the presence of “additional or differing legal theories is not significant when the actions . . . arise from a common factual core.” *In re: Reciprocal of America (ROA) Sales Practices Litig.*, 560 F. Supp. 2d 1357, 1359 (J.P.M.L. 2008). Many MDLs involve both state and federal law claims. *E.g., In re: Tremont Group Holdings, Inc., Sec. Litig.*, 626 F. Supp. 2d 1338, 1340 (J.P.M.L. 2009). Third, as we have often held, the pendency of a remand motion generally is not a sufficient reason to delay transfer.² Plaintiff can present his

* Judge John G. Heyburn II and Judge Lewis A. Kaplan took no part in the decision of this matter.

¹ JPMorgan states that the following defendants join in or otherwise support its opposition: Deutsche Bank AG; Citigroup, N.A.; Citigroup, Inc.; HSBC Holdings PLC; HSBC Bank PLC; Bank of Tokyo Mitsubishi UFJ Ltd.; Barclays Bank PLC; Credit Suisse Group AG; Coöperatieve Centrale Raiffeisen – Boerenleenbank B.A.; The Norinchukin Bank; Bank of America Corporation; Bank of America, N.A.; and Royal Bank of Canada.

² Panel Rule 2.1(d) expressly provides that the pendency of a conditional transfer order does not in any way 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 the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time in which to do so.

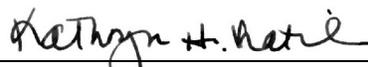
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jurisdictional arguments to the transferee judge. *See, e.g., In re Prudential Ins. Co. of America Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

After considering all argument of counsel, we find that *Maragos* involves common questions of fact with actions in this litigation 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. Moreover, transfer is warranted for reasons set out in our original order directing centralization. In that order, we held that the Southern District of New York was an appropriate Section 1407 forum for actions “shar[ing] factual issues arising from allegations concerning defendants’ participation in the British Bankers’ Association (BBA) London Interbank Offered Rate (Libor) panel,” in particular, allegations that defendants “manipulated Libor by deliberately and intentionally understating their respective borrowing costs to the BBA, and that, by doing so, they paid lower interest rates to customers who bought defendants’ products with rates of return tied to Libor, and also avoided disclosing the true risk premium that the market was attaching to them during the global financial crisis.” *In re: Libor-Based Fin. Instruments Antitrust Litig.*, 802 F. Supp. 2d 1380, 1381 (J.P.M.L. 2011). A review of the *Maragos* complaint leaves no question that the action has significant factual overlap with the actions already in the MDL. *See, e.g., Maragos Compl.* ¶ 1 (“This case arises from manipulation of the London Interbank Offered Rate (‘LIBOR’) by various prominent institutions.”).

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this 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



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