## UNITED STATES JUDICIAL PANEL on MULTIDISTRICT LITIGATION

## IN RE: COUNTRYWIDE FINANCIAL CORP. MORTGAGE-BACKED SECURITIES LITIGATION

The Prudential Life Insurance Company, Ltd., et al. v. ) Countrywide Financial Corp., et al., D. New Jersey, ) C.A. No. 2:13-01992 )

MDL No. 2265

## **TRANSFER ORDER**

**Before the Panel**: Pursuant to Rule 7.1, plaintiffs move to vacate our order that conditionally transferred this action (*Prudential*) to MDL No. 2265. Responding defendants<sup>1</sup> oppose the motion to vacate and favor inclusion of this action in MDL No. 2265.

After considering all argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2265, 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 order directing centralization. In that order, we held that the Central District of California was an appropriate Section 1407 forum for actions sharing factual questions arising from allegations that Countrywide and affiliated defendants misrepresented to investors in Countrywide mortgage-backed securities (MBS) origination practices for, and the credit quality of, the mortgage loans Countrywide originated from 2004 to 2007. *See In re: Countrywide Fin. Corp. Mortgage-Backed Sec. Litig.*, 812 F. Supp. 2d 1380 (J.P.M.L. 2011). Plaintiffs do not dispute that *Prudential* shares questions of fact with the actions in MDL No. 2265. Plaintiffs allege that they purchased Countrywide MBS and that Countrywide made misrepresentations in the offering materials concerning the MBS and the mortgage loans underlying them.

In support of their motion to vacate, plaintiffs argue, *inter alia*, that (1) a motion to remand to state court is pending, (2) *Prudential* alleges unique New Jersey state law claims,(3) transfer will impede coordination with other actions brought by plaintiffs against various issuers of MBS that are pending in New Jersey state and federal courts, and (4) MDL No. 2265 is too far advanced to warrant transfer of *Prudential*.

<sup>&</sup>lt;sup>1</sup> Countrywide Financial Corporation; Countrywide Home Loans, Inc.; CWALT, Inc.; CWABS, Inc.; CWMBS, Inc.; CWHEQ, Inc.; and Countrywide Securities Corporation (collectively, Countrywide).

## -2-

The Panel often has held that jurisdictional issues do not present an impediment to transfer.<sup>2</sup> 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). Nor does the presence of unique state law claims bar transfer. See In re: Kugel Mesh Hernia Patch Prods. Liab. Litig., 493 F. Supp. 2d 1371, 1373 (J.P.M.L. 2007) ("Transfer under Section 1407 does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to transfer."); In re: Air West, Inc., Sec. Litig., 384 F. Supp. 609, 611 (J.P.M.L. 1974) ("[T]he mere fact that divergent legal theories are asserted arising out of the same substantive claims and allegations presents no bar to a Section 1407 transfer.") (citations omitted). Additionally, we have rejected in this very litigation arguments that a particular action should not be transferred so that it may be coordinated with similar actions brought by the same plaintiffs. See, e.g., Transfer Order, MDL No. 2265 (J.P.M.L. Feb. 7, 2012). Finally, we do not agree that the status of proceedings in this MDL counsels against transfer. Discovery is not close to completion, the transferred to the MDL.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Central District of California and, with the consent of that court, assigned to the Honorable Mariana R. Pfaelzer for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

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Chairman

Kathryn H. Vratil Marjorie O. Rendell Lewis A. Kaplan Paul J. Barbadoro Charles R. Breyer Sarah S. Vance

<sup>&</sup>lt;sup>2</sup> 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 or other 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 to do so.