

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: MORTGAGE INDUSTRY
HOME AFFORDABLE MODIFICATION PROGRAM
(HAMP) CONTRACT LITIGATION**

MDL No. 2368

ORDER DENYING TRANSFER

Before the Panel:* Pursuant to 28 U.S.C. § 1407, plaintiffs move to centralize this litigation in the District of Massachusetts. This litigation currently consists of two actions listed on Schedule A. The parties have notified the Panel that one additional related action is pending in the District of Rhode Island. All defendants oppose centralization.¹

After considering the arguments of counsel, the Panel is not persuaded that Section 1407 centralization would serve the convenience of the parties and witnesses or further the just and efficient conduct of this litigation. In both actions, plaintiffs allege similar industry-wide misconduct in mortgage origination, servicing, and foreclosure practices against, collectively, over forty defendants. However, the alleged circumstances surrounding each loan's history from origination to foreclosure are quite different. Furthermore, the nature of plaintiffs' allegations and the involvement of many different non-overlapping defendants make the existence of common questions of fact unlikely. Given that, at most, only three actions are pending in three districts, the proponents of centralization have failed to convince us that any factual questions shared by these actions are sufficiently complex or numerous to justify Section 1407 transfer at this time. Informal cooperation among the involved attorneys and courts is both practical and preferable. *See In re: Boehringer Ingelheim Pharm., Inc., Fair Labor Standards Act (FLSA) Litig.*, 763 F. Supp. 2d 1377, 1378-79 (J.P.M.L. 2011).

IT IS THEREFORE ORDERED that the motion, pursuant to 28 U.S.C. § 1407, for centralization of these actions is denied.

* Judges John G. Heyburn II, Kathryn H. Vratil, and Charles R. Breyer took no part in the decision of this matter.

¹ An "interested party" brief was filed by lead counsel for plaintiffs in MDL No. 2290 – one of three MDL dockets covering claims arising from the Home Affordable Modification Program. *See In re JPMorgan Chase Mortg. Modification Litig.*, 818 F. Supp. 2d 1378 (J.P.M.L. 2011). Those plaintiffs oppose the pending motion for centralization.

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PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink that reads "W. Royal Ferguson, Jr." in a cursive style.

W. Royal Ferguson, Jr.
Acting Chairman

Barbara S. Jones

Paul J. Barbadoro

Marjorie O. Rendell

**IN RE: MORTGAGE INDUSTRY
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SCHEDULE A

Central District of California

Tom Casault, et al. v. Federal National Mortgage Association, et al.,
C.A. No. 2:11-10520

District of Massachusetts

Heang Ouch, et al. v. Federal National Mortgage Association, et al.,
C.A. No. 1:11-12090