

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: CUSTOMS AND TAX ADMINISTRATION
OF THE KINGDOM OF DENMARK (SKAT)
TAX REFUND SCHEME LITIGATION**

MDL No. 2865

TRANSFER ORDER

Before the Panel:* The Customs and Tax Administration of the Kingdom of Denmark (SKAT), the common plaintiff, moves under 28 U.S.C. § 1407 to centralize this litigation in the Southern District of New York. This litigation now consists of 140 actions pending in 11 districts, as listed on Schedule A. Defendants in 104 actions support centralization in the Southern District of New York. The Tew defendants¹ in 15 actions in the Eastern District of Kentucky oppose inclusion of their actions in the proposed MDL. Defendants in the remaining actions, as well as the the non-Tew defendants in six Eastern District of Kentucky actions, did not file responses.

On the basis of the papers filed and the hearing session held, we find that these actions involve common questions of fact, and that centralization will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. The actions share complex factual questions arising from plaintiff SKAT's allegation that the defendants – 141 U.S. retirement and pension plans and their alleged representatives and agents – engaged in a fraudulent scheme to obtain tax refunds from SKAT utilizing the services of overlapping individuals and firms that served as their authorized representatives, payment agents, and broker-custodians, following the same pattern of conduct in each action. In particular, SKAT alleges that, in all actions, defendants falsely represented that the plans owned shares in Danish companies, that taxes had been withheld on the dividends, and as tax-exempt entities, they were entitled to refunds under a double taxation treaty between Denmark and the United States. One of four payment agents allegedly was involved in all of the tax refund applications, and these agents in turn allegedly used one of nine broker custodians to provide false documentation of stock ownership and related tax information. The record indicates that discovery is likely to be international in scope and will include a significant number of nonparties. Centralization will eliminate duplicative discovery; prevent inconsistent

* Judge Charles A. Breyer, Judge Lewis A. Kaplan, and Judge Ellen Segal Huvelle took no part in the decision of this matter.

¹ The Tew defendants are Bernard Tew; Andrea Tew; Stephanie Tew; Vincent Tew; Bluegrass Investment Management, LLC; Tew, LP Retirement Plan; Tew Enterprises, LLC Retirement Plan; Industrial Pensions Group Trust; Casting Pensions Group Trust; SV Holdings, LLC Retirement Plan; Central Technologies Pensions Group Trust; Bluegrass Retirement Group Trust; Bluegrass Investment Management, LLC Retirement Plan; and Autoparts Pensions Group Trust.

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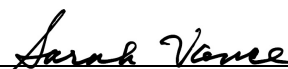
pretrial rulings, especially with respect to dispositive motions and discovery disputes; and conserve the resources of the parties, their counsel, and the judiciary.

The sole opposition to centralization is from the Tew defendants, who argue only against inclusion of the Eastern District of Kentucky actions. They argue that their actions focus on Kentucky-based individuals and entities that have nothing to do with the other actions in this litigation. But the record before the Panel does not support their contention. SKAT alleges that the tax refund claims in the Kentucky actions were part of the alleged common scheme at issue in the broader litigation. Moreover, the brokerage firm allegedly supplying false documentation for the claims at issue in the Kentucky actions is the same firm allegedly involved in 14 actions in six other districts. Thus, we decline the Tew defendants' request to exclude the Eastern District of Kentucky actions.²

We conclude that the Southern District of New York is an appropriate transferee district for this litigation. The majority of actions are concentrated in or near this district, and it is conveniently located for this nationwide litigation. Judge Lewis A. Kaplan is an experienced transferee judge, and he is familiar with the issues raised in this litigation. We are confident he will steer this matter on a prudent course.

IT IS THEREFORE ORDERED that the actions listed on Schedule A and pending outside the Southern District of New York are transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Lewis A. Kaplan for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Catherine D. Perry

R. David Proctor

² The Tew defendants also argue that they will suffer prejudice from centralization because their case-specific facts will be “lost in the mix” with hundreds of other defendants. These are essentially case management concerns that transferee judges routinely are called upon to address. Additionally, to the extent they are concerned about confusion of the issues at trial, we note that centralization is solely for pretrial purposes. Once discovery and other pretrial proceedings related to the common issues have been completed, the transferee judge may suggest Section 1407 remand of actions to their transferor courts for more individual discovery and trial, if necessary.

**IN RE: CUSTOMS AND TAX ADMINISTRATION
OF THE KINGDOM OF DENMARK (SKAT)
TAX REFUND SCHEME LITIGATION**

MDL No. 2865

SCHEDULE A

District of Connecticut

SKAT v. TVETER LLC PENSION PLAN, ET AL., C.A. No. 3:18-00985
SKAT v. VALERIUS LLC SOLO 401K PLAN, ET AL., C.A. No. 3:18-00987

Southern District of Florida

SKAT v. THE FWC CAPITAL LLC PENSION PLAN, ET AL., C.A. No. 1:18-21801
SKAT v. THE RDL CONSULTING GROUP LLC PENSION PLAN, ET AL.,
C.A. No. 1:18-22070

Northern District of Illinois

SKAT v. COLE ENTERPRISES USA RETIREMENT PLAN & TRUST, ET AL.,
C.A. No. 1:18-03206
SKAT v. BLUE OCEAN EQUITY LLC RETIREMENT PLAN, ET AL.,
C.A. No. 1:18-03207
SKAT v. KK LAW FIRM RETIREMENT PLAN TRUST, ET AL., C.A. No. 1:18-04082

Eastern District of Kentucky

SKAT v. SRH FARMS LLC 401(K) PLAN, ET AL., C.A. No. 5:18-00395
SKAT v. MGH FARMS LLC 401(K) PLAN, ET AL., C.A. No. 5:18-00396
SKAT v. JSH FARMS 401(K) PLAN, ET AL., C.A. No. 5:18-00397
SKAT v. TRITON FARMS LLC 401(K) PLAN, ET AL., C.A. No. 5:18-00398
SKAT v. KRH FARMS LLC 401(K) PLAN, ET AL., C.A. No. 5:18-00399
SKAT v. TEW, LP RETIREMENT PLAN, ET AL., C.A. No. 5:18-00400
SKAT v. TEW ENTERPRISES, LLC RETIREMENT PLAN, ET AL., C.A. No. 5:18-00401
SKAT v. INDUSTRIAL PENSIONS GROUP TRUST, ET AL., C.A. No. 5:18-00402
SKAT v. CASTING PENSIONS GROUP TRUST, ET AL., C.A. No. 5:18-00403
SKAT v. SV HOLDINGS, LLC RETIREMENT PLAN, ET AL., C.A. No. 5:18-00404
SKAT v. CENTRAL TECHNOLOGIES PENSIONS GROUP TRUST, ET AL.,
C.A. No. 5:18-00405
SKAT v. BLUEGRASS RETIREMENT GROUP TRUST, ET AL., C.A. No. 5:18-00406
SKAT v. BLUEGRASS INVESTMENT MANAGEMENT, LLC RETIREMENT PLAN,
ET AL., C.A. No. 5:18-00407
SKAT v. AUTOPARTS PENSIONS GROUP TRUST, ET AL., C.A. No. 5:18-00408
SKAT v. MSJJ RETIREMENT GROUP TRUST, ET AL., C.A. No. 5:18-00409

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District of Massachusetts

SKAT v. THE 78 YORKTOWN PENSION PLAN, ET AL., C.A. No. 1:18-10890
SKAT v. THE CAMBRIDGE TOWN LINE PENSION PLAN, ET AL.,
C.A. No. 1:18-10891
SKAT v. THE DIAMOND SCOTT CAPITAL PENSION PLAN, ET AL.,
C.A. No. 1:18-10892
SKAT v. THE HOTEL FROMANCE PENSION PLAN, ET AL., C.A. No. 1:18-10893
SKAT v. THE MOUNTAIN AIR LLC 401K PLAN, ET AL., C.A. No. 1:18-10894
SKAT v. THE SKSL LLC PENSION PLAN, ET AL., C.A. No. 1:18-10895
SKAT v. THE SNOW HILL PENSION PLAN, ET AL., C.A. No. 1:18-10896
SKAT v. THE WESTRIDGE AVE LLC 401K PLAN, ET AL., C.A. No. 1:18-10897
SKAT v. THE SHAPIRO BLUE MANAGEMENT LLC 401K PLAN, ET AL.,
C.A. No. 1:18-11008
SKAT v. THE PATRICK PARTNERS CONGLOMERATE PENSION PLAN, ET AL.,
C.A. No. 1:18-11011
SKAT v. CSCC CAPITAL PENSION PLAN, ET AL., C.A. No. 1:18-11012

District of New Jersey

SKAT v. THE CARDINAL CONSULTING PENSION PLAN, ET AL.,
C.A. No. 3:18-08878
SKAT v. THE EGRET ASSOCIATES LLC 401K PLAN, ET AL., C.A. No. 3:18-08880
SKAT v. THE CROW ASSOCIATES PENSION PLAN, ET AL., C.A. No. 3:18-08881
SKAT v. THE HERON ADVISORS PENSION PLAN, ET AL., C.A. No. 3:18-08882
SKAT v. THE HOBOKEN ADVISORS LLC 401K PLAN, ET AL., C.A. No. 3:18-08883
SKAT v. THE JAYFRAN BLUE PENSION PLAN, ET AL., C.A. No. 3:18-08884
SKAT v. THE JT HEALTH CONSULTING LLC 401K PLAN, ET AL.,
C.A. No. 3:18-08885
SKAT v. THE LAKEVIEW ADVISORS 401K PLAN, ET AL., C.A. No. 3:18-08886
SKAT v. THE OSPREY ASSOCIATES LLC 401K PLAN, ET AL., C.A. No. 3:18-08887
SKAT v. THE SANDPIPER PENSION PLAN, ET AL., C.A. No. 3:18-08888
SKAT v. THE ZEN TRAINING LLC 401(K) PLAN, ET AL., C.A. No. 3:18-08889
SKAT v. THE EVERYTHING CLEAN LLC 401K PLAN, ET AL., C.A. No. 3:18-09439
SKAT v. THE JUMP GROUP LLC 401K PLAN, ET AL., C.A. No. 3:18-09442
SKAT v. THE OAKS GROUP PENSION PLAN, ET AL., C.A. No. 3:18-09444
SKAT v. THE WAVE MAVEN LLC 401K PLAN, ET AL., C.A. No. 3:18-09445
SKAT v. THE BALMORAL MANAGEMENT LLC 401K PENSION PLAN, ET AL.,
C.A. No. 3:18-10098
SKAT v. THE BEECH TREE PARTNERS 401K PLAN, ET AL., C.A. No. 3:18-10108
SKAT v. THE BLACKBIRD 401K PLAN, ET AL., C.A. No. 3:18-10109
SKAT v. THE CHAMBERS PROPERTY MANAGEMENT LLC 401K PLAN, ET AL.,
C.A. No. 3:18-10110
SKAT v. FIFTYEIGHTSIXTY LLC SOLO 401K PLAN, ET AL., C.A. No. 3:18-10111

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SKAT v. THE HAWK GROUP PENSION PLAN, ET AL., C.A. No. 3:18-10112
SKAT v. THE HIBISCUS PARTNERS LLC 401K PLAN, ET AL., C.A. No. 3:18-10113
SKAT v. THE MAPLE ADVISORS LLC 401K PLAN, ET AL., C.A. No. 3:18-10114
SKAT v. ONEZEROFIVE LLC SOLO 401K PLAN, ET AL., C.A. No. 3:18-10115
SKAT v. THE ROBIN DANIEL PENSION PLAN, ET AL., C.A. No. 3:18-10116
SKAT v. THE SEA BRIGHT ADVISORS LLC 401K PLAN, ET AL., C.A. No. 3:18-10117
SKAT v. THE TAG REALTY ADVISORS LLC 401K, ET AL., C.A. No. 3:18-10118
SKAT v. THE THROCKMORTON REALTY ADVISORS 401K PLAN, ET AL.,
C.A. No. 3:18-10119
SKAT v. ACORN CAPITAL CORPORATION EMPLOYEE PROFIT SHARING PLAN,
ET AL., C.A. No. 3:18-10464
SKAT v. CAMBRIDGE WAY LLC 401K PROFIT SHARING PLAN, ET AL.,
C.A. No. 3:18-10465
SKAT v. THE DINK14 LLC 401K PLAN, ET AL., C.A. No. 3:18-10466
SKAT v. JML CAPITAL LLC 401K PLAN, ET AL., C.A. No. 3:18-10468
SKAT v. NATOLI MANAGEMENT PENSION PLAN, ET AL., C.A. No. 3:18-10469
SKAT v. NOVA FONTA TRADING LLC 401K PLAN, ET AL., C.A. No. 3:18-10470
SKAT v. THE SKYBAX LLC 401K PLAN, ET AL., C.A. No. 3:18-10592

Southern District of New York

IN RE SKAT TAX REFUND SCHEME LITIGATION, C.A. No. 1:18-04047
SKAT v. THE DMR PENSION PLAN, ET AL., C.A. No. 1:18-04049
SKAT v. THE HOUSTON ROCCO LLC 401K PLAN, ET AL., C.A. No. 1:18-04050
SKAT v. THE PROPER PACIFIC LLC 401K PLAN, ET AL., C.A. No. 1:18-04051
SKAT v. THE LBR CAPITAL PENSION PLAN, ET AL., C.A. No. 1:18-04052
SKAT v. THE ATLANTIC DHR 401K PLAN, ET AL., C.A. No. 1:18-04430
SKAT v. THE STOR CAPITAL CONSULTING LLC 401K PLAN, ET AL.,
C.A. No. 1:18-04434
SKAT v. THE BUSBY BLACK 401K PLAN, ET AL., C.A. No. 1:18-04522
SKAT v. THE CANADA ROCK LLC 401K PLAN, ET AL., C.A. No. 1:18-04531
SKAT v. THE ISDB PENSION PLAN, ET AL., C.A. No. 1:18-04536
SKAT v. THE MONIN AMPER PENSION PLAN, ET AL., C.A. No. 1:18-04538
SKAT v. THE NYC STANISMORE PENSION PLAN, ET AL., C.A. No. 1:18-04541
SKAT v. THE TEXAS ROCCO LLC 401K PLAN, ET AL., C.A. No. 1:18-04543
SKAT v. SANFORD VILLA PENSION PLAN, ET AL., C.A. No. 1:18-04767
SKAT v. THE ASTON ADVISORS LLC 401K PLAN, ET AL., C.A. No. 1:18-04770
SKAT v. THE SECTOR 230 LLC 401K PLAN, ET AL., C.A. No. 1:18-04771
SKAT v. RAUBRITTER LLC PENSION PLAN, ET AL., C.A. No. 1:18-04833
SKAT v. THE M2F WELLNESS LLC 401K PLAN, ET AL., C.A. No. 1:18-04890
SKAT v. THE MPQ HOLDINGS LLC 401K PLAN, ET AL., C.A. No. 1:18-04892
SKAT v. STERLING ALPHA LLC 401K PROFIT SHARING PLAN, ET AL.,
C.A. No. 1:18-04894
SKAT v. THE TTKJ LLC 401K PLAN, ET AL., C.A. No. 1:18-04896

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SKAT v. NYCATX LLC SOLO 401K PLAN, ET AL., C.A. No. 1:18-04898
SKAT v. SANDER GERBER PENSION PLAN, ET AL., C.A. No. 1:18-04899
SKAT v. ACKVIEW SOLO 401K PLAN, ET AL., C.A. No. 1:18-04900
SKAT v. THE DOSMON BLY PENSION PLAN, ET AL., C.A. No. 1:18-05045
SKAT v. THE GOLDSTEIN LAW GROUP PC 401(K) PROFIT SHARING PLAN,
ET AL., C.A. No. 1:18-05053
SKAT v. THE INDIA BOMBAY LLC 401K PENSION PLAN, ET AL.,
C.A. No. 1:18-05057
SKAT v. THE ARIA PENSION PLAN, ET AL., C.A. No. 1:18-05147
SKAT v. THE BELFORTE PENSION PLAN, ET AL., C.A. No. 1:18-05150
SKAT v. THE BRAVOS ADVISORS 401K PLAN, ET AL., C.A. No. 1:18-05151
SKAT v. THE COSTELLO ADVISORS PENSION PLAN, ET AL., C.A. No. 1:18-05158
SKAT v. THE ESKIN PENSION PLAN, ET AL., C.A. No. 1:18-05164
SKAT v. THE FIELDCREST PENSION PLAN, ET AL., C.A. No. 1:18-05180
SKAT v. THE WESTPORT ADVISORS LLC 401K PLAN, ET AL., C.A. No. 1:18-05183
SKAT v. THE KODIAK CAPITAL PENSION PLAN, ET AL., C.A. No. 1:18-05185
SKAT v. THE KYBER PENSION PLAN, ET AL., C.A. No. 1:18-05186
SKAT v. THE LERICI CAPITAL PENSION PLAN, ET AL., C.A. No. 1:18-05188
SKAT v. THE LUDLOW HOLDINGS 401K PLAN, ET AL., C.A. No. 1:18-05189
SKAT v. THE REGOLETH PENSION PLAN, ET AL., C.A. No. 1:18-05190
SKAT v. THE SABA CAPITAL LLC 401K PLAN, ET AL., C.A. No. 1:18-05192
SKAT v. THE WEST RIVER PENSION PLAN, ET AL., C.A. No. 1:18-05193
SKAT v. THE STARK PENSION PLAN, ET AL., C.A. No. 1:18-05194
SKAT v. THE PETKOV PARTNERS PENSION PLAN, ET AL., C.A. No. 1:18-05299
SKAT v. THE PETKOV MANAGEMENT LLC 401K PLAN, ET AL., C.A. No. 1:18-05300
SKAT v. THE SVP 401K PLAN, ET AL., C.A. No. 1:18-05305
SKAT v. THE KRABI HOLDINGS LLC 401K PLAN, ET AL., C.A. No. 1:18-05307
SKAT v. THE SPKK LLC 401K PLAN, ET AL., C.A. No. 1:18-05308
SKAT v. THE KASV GROUP PENSION PLAN, ET AL., C.A. No. 1:18-05309
SKAT v. DEL MAR ASSET MANAGEMENT SAVING & RETIREMENT PLAN, ET AL.,
C.A. No. 1:18-05374
SKAT v. HEADSAIL MANUFACTURING LLC ROTH 401K PLAN, ET AL.,
C.A. No. 1:18-7824
SKAT v. EDGEPOINT CAPITAL LLC ROTH 401K PLAN, ET AL., C.A. No. 1:18-7827
SKAT v. AEROVANE LOGISTICS LLC ROTH 401K PLAN, ET AL., C.A. No. 1:18-7828
SKAT v. RANDOM HOLDINGS 401K PLAN, ET AL., C.A. No. 1:18-7829
SKAT v. FEDERATED LOGISTICS LLC 401K, ET AL., C.A. No. 1:18-08665

Southern District of Ohio

SKAT v. THE BELLA CONSULTANTS PENSION PLAN, ET AL., C.A. No. 1:18-00309
SKAT v. THE MUELLER INVESTMENTS PENSION PLAN, ET AL.,
C.A. No. 1:18-00310
SKAT v. THE GREEN GROUP SITE PENSION PLAN, ET AL., C.A. No. 1:18-00311
SKAT v. THE SINCLAIR PENSION PLAN, ET AL., C.A. No. 1:18-00351

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Eastern District of Pennsylvania

SKAT v. NEWSONG FELLOWSHIP CHURCH 401K PLAN, ET AL.,
C.A. No. 5:18-02459

Southern District of Texas

CUSTOMS AND TAX ADMINISTRATION OF THE KINGDOM OF DENMARK v.
BLACKRAIN PEGASUS LLC SOLO 401K PLAN, ET AL., C.A. No. 4:18-01889
CUSTOMS AND TAX ADMINISTRATION OF THE KINGDOM OF DENMARK v.
GYOS 23 LLC SOLO 401K PLAN, ET AL., C.A. No. 4:18-01895
CUSTOMS AND TAX ADMINISTRATION OF THE KINGDOM OF DENMARK v.
THE OAK TREE ONE 401K PLAN, ET AL., C.A. No. 4:18-01897
CUSTOMS AND TAX ADMINISTRATION OF THE KINGDOM OF DENMARK v.
THE JOANNE E. BRADLEY SOLO 401K PLAN, ET AL., C.A. No. 4:18-01898
CUSTOMS AND TAX ADMINISTRATION OF THE KINGDOM OF DENMARK v.
DELGADO FOX LLC SOLO 401K PLAN, ET AL., C.A. No. 4:18-01899
CUSTOMS AND TAX ADMINISTRATION OF THE KINGDOM OF DENMARK v.
PEGASUS FOX 23 LLC SOLO 401K PLAN, ET AL., C.A. No. 4:18-01900

District of Utah

SKAT v. DW CONSTRUCTION, INC. RETIREMENT PLAN, ET AL.,
C.A. No. 2:18-00452
SKAT v. KAMCO INVESTMENTS, INC. PENSION PLAN, ET AL., C.A. No. 2:18-00454
SKAT v. KAMCO LP PROFIT SHARING PENSION PLAN, ET AL.,
C.A. No. 2:18-00455
SKAT v. LINDEN ASSOCIATES DEFINED BENEFIT PLAN, ET AL.,
C.A. No. 2:18-00456
SKAT v. MOIRA ASSOCIATES LLC 401K PLAN, ET AL., C.A. No. 2:18-00458
SKAT v. RIVERSIDE ASSOCIATES DEFINED BENEFIT PLAN, ET AL.,
C.A. No. 2:18-00460
SKAT v. AMERICAN INVESTMENT GROUP OF NEW YORK, L.P., ET AL.,
C.A. No. 2:18-00678