

**BEFORE THE UNITED STATES
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

IN RE: Paycheck Protection Program (“PPP”) Agent Fees Litigation

MDL Docket No. 2950

**RESPONSE IN OPPOSITION TO MOTION FOR TRANSFER OF ACTIONS
PURSUANT TO 28 U.S.C. § 1407 AND JOINDER IN RESPONSE**

Defendants Citibank, N.A. (“Citibank”) and Citigroup Inc. (“Citigroup,” and collectively, the “Citi Defendants”),¹ by the undersigned counsel and pursuant to Rule 6.1(c) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation (“JPML” or the “Panel”), hereby oppose Alliant CPA Group LLC’s Motion for Transfer of Actions to the Northern District of Georgia pursuant to 28 U.S.C. § 1407 for a Coordinated and/or Consolidated Proceeding (the “Motion”) [Dkt. # 1].² Citibank is named as a party in only two of the allegedly “Related Actions” at issue, and Citigroup is named as a party in only one of the allegedly “Related Actions” at issue. There is no reason to enmesh the Citi Defendants in an industry-wide Multidistrict Litigation (“MDL”), which would be inconvenient for the parties, the witnesses, and counsel.

The Citi Defendants join in the Response in Opposition filed by Defendant Synovus Bank and others (“Synovus Response”) and incorporate the Synovus Response as if set forth

¹ Defendant Citigroup is a financial holding company under Section 4(k) and (l) of the Bank Holding Company Act of 1956. It is not a proper Defendant, as it does not, and never has, participated in the Paycheck Protection Program (“PPP”) and has made no loans in connection with the PPP.

² The Citi Defendants were initially named as Defendants in the case captioned *American Video Duplicating, et al. v. Citigroup Inc., et al.*, No. 2:20-cv-03815 (C.D. Cal.), which was listed as a “Related Action” in the Schedule filed with the Motion. See Schedule of Actions [Dkt. # 1-2], p. 1. On June 2, 2020, the plaintiffs in that case filed a Notice of Dismissal and voluntarily dismissed Citigroup. Thus, Citigroup is no longer a party to that case. The Citi Defendants have also been named as Defendants in the case captioned *Fahmia, Inc., et al. v. Citibank, N.A., et al.*, No. 1:20-cv-04146 (S.D.N.Y.), which was listed as a “Related Action” in a Notice of Related Actions filed on June 10, 2020. See Notice of Related Actions [Dkt. # 98-1], p. 1.

herein. Indeed, other than file a series of nearly-identical class actions around the country, plaintiffs' counsel have not established that the criteria for creating an MDL have been met.

ARGUMENT

I. The Panel Should Deny The Motion.

As explained in the Synovus Response, Movant cannot meet its burden of demonstrating that the Agent Fee Cases should be transferred to a single district for coordinated or consolidated pretrial proceedings. As demonstrated in detail in the Synovus Response, which is hereby joined and incorporated herein by reference:

- The Agent Fee Cases primarily focus on common questions of law, not fact;
- Movant's request for centralization is nothing more than an attempt to centralize litigation on an industry-wide basis, which is disfavored;
- Transfer would not serve the convenience of the parties and witnesses and would not promote the just and efficient conduct of the actions; and
- If any Defendant supports centralization, the Panel can create a Defendant-specific MDL.

The Panel should deny the Motion for these reasons, which are set forth in detail in the Synovus Response.

II. If The Panel Grants The Motion And Creates An Industry-Wide MDL, The Related Actions Should Be Centralized In The Northern District Of Georgia Or, In The Alternative, The Northern District Of Illinois.

As explained in the Synovus Response, if the Panel grants the Motion—and it should not—the Related Actions should be centralized in the Northern District of Georgia before Judge Michael L. Brown. The Northern District of Georgia would be a convenient and economical location for all parties and their counsel, the District is experienced with handling MDLs and has

sufficient resources to take on a new case, and Judge Brown does not currently have any MDL proceedings on his docket.

In the alternative, the Related Actions should be centralized in the Northern District of Illinois before Judge Edmond E. Chang, who is already overseeing one of the Related Actions. Like the Northern District of Georgia, the Northern District of Illinois is a convenient and economical location for all parties and their counsel. *See In re African-American Slave Descendants Litig.*, 231 F .Supp. 1357, 1358 (J.P.M.L. 2002) (recognizing Northern District of Illinois as a “geographically central district” that is “a convenient location for a litigation becoming nationwide in scope”). The Panel has assigned numerous MDLs to the Northern District of Illinois, and its efficient handling of these cases reflect the District’s capable staff and history of successfully managing MDLs. The District has handled 105 MDLs, with 10 currently assigned.³ Despite not previously presiding over an MDL, Judge Chang has the experience to guide these cases, having been on the bench since 2010, and before that, having a distinguished career as an Assistant U.S. Attorney in Chicago.

CONCLUSION

For the reasons stated above, and in the Synovus Response, which is joined and incorporated herein by reference, the Citi Defendants respectfully request that the Panel deny the Motion. If the Panel grants the Motion and creates an industry-wide MDL, the Citi Defendants respectfully request that the Related Actions be centralized in the Northern District of Georgia

³ See U.S. Judicial Panel on Multidistrict Litigation, MDL Statistics Report – Distribution of Pending MDL Dockets by District (available at https://www.jpml.uscourts.gov/sites/jpml/files/Pending_MD_L_Dockets_By_District-June-15-2020.pdf), p. 2 (showing 10 pending MDLs in the Northern District of Illinois); U.S. Judicial Panel on Multidistrict Litigation, Multidistrict Litigation Termination Through September 30, 2019 (available at https://www.jpml.uscourts.gov/sites/jpml/files/JPML_Cumulative_Terminated_Litigations-FY-2019.pdf) (showing 95 previously terminated MDLs).

before Judge Michael L. Brown or, in the alternative, in the Northern District of Illinois before Judge Edmond E. Chang.

Dated: June 17, 2020

By: /s/ Lucia Nale

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