

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

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

MDL Docket No. 2950

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

Pursuant to Rule 6.1(c) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, defendant Cross River Bank (mistakenly sued as Cross River Bank, Inc.), one of the defendants in *A.D. Sims, LLC v. Wintrust Financial Corporation et al.*, No. 1:20-cv-002644 (N.D. Illinois) (the “*A.D. Sims* Action”) hereby joins in the opposition brief filed by Synovus Bank (Docket No. [171]), filed June 17, 2020 (the “Consolidated Response”).

As further grounds for its opposition, Cross River Bank refers the Judicial Panel to Cross River Bank’s motion to dismiss and supporting brief, attached as Exhibits A and B hereto. Judge Edmond Chang has likewise set a briefing schedule, with plaintiff’s opposition due July 13, and Cross River Bank’s reply due August 3, 2020. *See* Exhibit C. As is common in the Northern District of Illinois, the Court will rule without hearing.

The Judicial Panel has repeatedly denied transfer when a previously pending motion may render transfer unnecessary. *See, e.g., In re ATM Interchange Fee Antitrust Litig.*, 350 F. Supp. 2d 1361, 1362–63 (J.P.M.L. 2004) (denying transfer pursuant to § 1407 based on the possibility that a previously-pending motion would render § 1407 transfer unnecessary); *In re Republic Western Insurance Co. Insurance Coverage Litigation*, 206 F.Supp.2d 1364 (J.P.M.L. 2002) (“There is a reasonable prospect that the multidistrict character of the actions here before us may be eliminated by district court action on motions presently pending in the District of Massachusetts...”); *In re The Boeing Company Emp’t Practices Litig.*, 293 F. Supp. 2d 1382,

1383 (J.P.M.L. 2003) (denying transfer motion based on Panel's conclusion that anticipated dispositive motion may resolve underlying action). Here, there is even greater reason to deny the transfer given that the court has *already set a briefing schedule* on the motion to dismiss, and will be in the middle of its dismissal deliberations while the motion to transfer is pending.

Accordingly, and based on the various reasons and authorities more fully set forth in the Synovus Opposition, Cross River Bank respectfully request that the Judicial Panel deny the Motion.

Dated: June 17, 2020

Respectfully submitted,

CROSS RIVER BANK

By: /s/ Richard E. Gottlieb
Richard E. Gottlieb
MANATT, PHELPS & PHILLIPS, LLP
151 North Franklin Street, Suite 2600
Chicago, IL 60606
Telephone: (312) 529-6300
Email: rgottlieb@manatt.com