BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: PAYCHECK PROTECTION PROGRAM (PPP) AGENT FEES LITIGATION	**MDL No. 2950**

INTERESTED PARTY RESPONSE OF PLAINTIFF DAVID WINNER IN SUPPORT OF TRANSFER TO THE SOUTHERN DISTRICT OF NEW YORK OR THE NORTHERN DISTRICT OF ILLINOIS

Plaintiff David Winner d/b/a DLW Business Consulting, Ltd. ("Respondent") respectfully submits this Interested Party Response to the pending motion for transfer and centralization in multi-district litigation of the above-captioned proceedings. As discussed below, Respondent supports transfer and centralization, but submits that the cases should be transferred to the Honorable Jed. S. Rakoff in the Southern District of New York or to one of the three judges presiding over related cases in the Northern District of Illinois.

I. Introduction

These cases arise from a large but relatively straightforward dispute that warrants multidistrict coordination. Over the past few months, many thousands of small businesses around the country have been forced to shut down or suspend operations as a result of the COVID-19 global pandemic, losing all or nearly all revenue and rendering them unable to meet payroll and expenses. Accordingly, Congress passed the CARES Act, including the Paycheck Protection Program ("PPP"), to keep small businesses afloat and avoid massive layoffs by distributing sufficient funds to cover up to eight weeks of payroll and other expenses through the Small Business Administration ("SBA"). 15 U.S.C. §636(a)(36). Congress provided that PPP loans would be disbursed through SBA-approved lenders, who would receive an origination fee from the SBA for each loan, the amount of which depends on the size of the loan. The PPP regulations further provide that "[a]gent fees will be paid by the lender out of the fees the lender receives from SBA. Agents may not collect fees from the borrower or be paid out of the PPP loan proceeds."[1] "Agent fees" were to be in amounts not exceeding: 1% for loans of not more than $350,000; 0.50% for loans of more than $350,000 and less than $2 million; and 0.25% for loans of at least $2 million.[2]

Many agents – accountants, financial advisors, and the like – assisted their small business clients with preparing and submitting PPP loan applications. The agents are prohibited from charging their clients for such work; instead, the PPP regulations specifically state that the agents will be paid by the lenders out of the fees the lender receives from the SBA.[3] Nonetheless, dozens of major banks across the country have now categorically refused to pay any agent fees related to PPP loans. These blanket refusals raise common questions that are well-suited for coordinated adjudication.[4]

Respondent operates an accounting firm located in Chicago, Illinois. Respondent assisted several clients in securing PPP loans that were critical to their ability to survive the economic climate created by the COVID-19 pandemic. However, he has not been paid for his work because the lenders are refusing to meet their obligations under the PPP regulations. Thus, Respondent is similarly situated to thousands of other affected agents throughout the country, and requests coordination in order to streamline resolution of this dispute for himself and others.

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[1] SBA Interim Final Rule, 85 Fed. Reg. 20816 § (4)(c).

[2] *Id.*

[3] *Id*.

[4] Another set of cases filed against lenders and related to the PPP loans allege claims on behalf of small business ***borrowers***, not agents. *See*, *e.g.*, *In re JPMorgan Chase Paycheck Protection Plan Litig.* (MDL No. 2944); *In re Bank of America Paycheck Protection Plan Litig.* (MDL No. 2952); and *In re Wells Fargo Paycheck Protection Plan Litig.* (MDL No. 2954) The PPP Borrower Action plaintiffs assert claims that arise out of facts such as prioritizing larger loan applicants over smaller applicants, excluding applicants who were not existing customers of the lender, and backdating approvals. They are fundamentally different in the underlying facts and the causes of action than the ***agent fee*** actions that are the subject of this MDL No. 2950.

Because so many agents have been denied payment, by the same group of lenders, on the basis of the same statute and SBA regulation, this litigation will be dominated by class actions against the relevant lender defendants. Indeed, scores of class actions have already been filed in federal courts around the country over the past month.[5] Centralized management of discovery, class certification, and pre-trial issues would eliminate the need for substantial duplicative litigation around the country, and the possibility of inconsistent results. The alternative to centralization is a patchwork of federal judges around the country independently grappling with many identical facts and legal issues and expending resources ruling on them independently with the obvious potential for inconsistent rulings. A single judge overseeing all of these related actions could manage this workload more efficiently and help achieve faster and fairer results for the parties, and avoid inconsistent rulings throughout the country.

As discussed below, Respondent submits that that the transferee district should be either the Southern District of New York or the Northern District of Illinois. New York is the banking capital of the country, with all pending cases already related before the Honorable Jed S. Rakoff, who has extensive experience managing MDLs and who is well equipped to manage this potentially large litigation as it develops. The Northern District of Illinois is an equally good alternative, being a centrally-located hub for finance and lending, with three cases currently pending before judges who are well-qualified to oversee this MDL.

II. Litigation Concerning Lenders' Refusal to Pay Agent Fees Should Be Centralized.

A. The Agent Fee Dispute Raises Several Common Questions.

The defendant lenders' refusal to pay agent fees raises questions that are inherently common and well-suited to coordinated resolution. 28 USC § 1407 provides for the transfer of

[5] As of this filing, there presently are 30 agent fee actions before the Panel (hereafter, "Related Actions"), filed by 25 different plaintiffs in 16 different districts, and involving 108 financial institution defendants.

litigation "involving one or more common questions of fact." As this Panel has held numerous times, "[s]ection 1407 does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to transfer." *In re Darvocet, Darvon & Propoxyphene Prod. Liab. Litig.*, 939 F. Supp. 2d 1376, 1377 (J.P.M.L. 2013); *accord, In re Ins. Brokerage Antitrust Litig.*, 360 F. Supp. 2d 1371, 1372 (J.P.M.L. 2005); *In re Denture Cream Prod. Liab. Litig.*, 624 F. Supp. 2d 1379, 1381 (J.P.M.L. 2009).

The cases that would be part of the proposed MDL raise at least the following common and foundational questions of fact that, if the cases were litigated separately, would need to be separately resolved, by separate judges, in most or all of the separate actions:

1. Whether lenders are obligated under the CARES Act and/or its implementing regulations to pay agent fees for agents' services assisting PPP loan applications?
2. Whether the lenders have been unjustly enriched by retaining 100% of the fees paid to them by the SBA for loans on which agents assisted in the preparation and/or submission?
3. Whether the lenders have acted in bad faith in refusing to pay agent fees?
4. Is declaratory judgment available to plaintiffs seeking agent fees?

That these questions are common across the cases is underscored by the fact that the plaintiffs have pled nearly uniform causes of action and factual allegations across dozens of cases. Accordingly, while the cases here involve different lenders, they nevertheless arise from a common foundation and will require the resolution of the same foundational questions. Determinations related to the interpretation of the PPP regulations, and the discovery necessary to decide those questions, will apply across cases and will benefit greatly from uniformity in judicial interpretation.

B. <u>Coordinated Resolution Facilitates Efficiency and Fairness</u>

Transfer is appropriate under section 1407 where it "promote[s] the just and efficient conduct of such actions."[6] Coordinated proceedings are appropriate and effective where, as here, numerous defendants collectively engaged in conduct subject to common allegations of unjust enrichment, conversion, and violation of state consumer protection statutes. For example, in *In re: Checking Account Overdraft Litig.*, 626 F. Supp. 2d 1333 (U.S. Jud. Pan. Mult. Lit. 2009), the JPML panel considered a request to coordinate cases against multiple defendant banks that involved breach of contract, unjust enrichment, and consumer protection claims based on the banks' alleged charging of improper overdraft fees. *Id.* at 1334–5; *id.*, 694 F. Supp. 2d 1302, 1310 (S.D. Fla. 2010). Even though the banks' practices were not uniform and each bank had different contract language, the panel granted transfer, finding that "[w]hile there will be some unique questions of fact from bank-to-bank, these actions share sufficient factual questions relating to industry-wide bank posting policies and procedures to warrant centralization of all actions in one MDL docket." *In re: Checking Account Overdraft Litig.*, 626 F. Supp. 2d at 1335.

That these cases collectively involve several lender defendants underscores the importance of centralization. As the Panel has found multiple times, centralizing cases involving multiple defendants often helps to eliminate duplicative litigation. *See, e.g., In re National Prescription Opiate Litig.*, 290 F. Supp. 3d 1375, 1379 (J.P.M.L. 2017) (centralizing litigation

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[6] Section 1407 also provides that transfer should suit the parties and witnesses. *Id.* This issue is considered in § III as it pertains to the venue for the MDL. But with respect to the desirability of transferring generally, centralizing this litigation will reduce the collective costs for the parties by, among other methods, the ability to avoid multiple depositions of the witnesses. Any inconvenience to individual defendants or witnesses will be more than offset by the substantial collective efficiencies that will be gained. It is also possible that proceedings will be handled remotely for some time in any event, perhaps even until there is a vaccine to the Covid-19 virus. But even in normal times, witnesses are typically deposed in their home district and documents are usually produced electronically, making their original location less relevant in modern litigation. *Cf., e.g., In re Tribune Co. Fraudulent Conveyance Litig.*, 831 F. Supp. 2d 1371, 1372 (J.P.M.L. 2011); *see also Tate v. Brinderson Constructors, Inc.*, No. 16-CV-04314-VC, 2016 WL 7387430, at *1 (N.D. Cal. Dec. 21, 2016); *Erb v. Roadway Exp.*, Inc., No. 4:05-CV-0011, 2005 WL 1215955, at *4 (M.D. Pa. Apr. 19, 2005).

against hundreds of pharmaceutical manufacturers and distributors, finding that "[a]lthough individualized factual issues may arise in each action, such issues do not – especially at this early stage of litigation – negate the efficiencies to be gained by centralization.");[7] *In re ZF-TRW Airbag Control Units Prod. Liab. Litig.*, 410 F. Supp. 3d 1357, 1360, n.2–4 (U.S. Jud. Pan. Mult. Lit. 2019) (rejecting the argument that variation between common defect claims asserted against all major domestic and foreign auto makers would defeat centralization because "the existence of individual issues, which is relatively commonplace in products liability MDLs, does not negate the common ones, which appear to be sufficiently substantial and complex to warrant creation of an MDL").

The number of Defendants potentially involved in this litigation does not alter the relationship between centralization and efficiency. In addition to the aforementioned *Checking Account Overdraft Litigation*, which involved more than two dozen defendants, and the other matters cited above, this Panel has ordered coordination of cases involving multiple defendants in numerous other circumstances. *See, e.g., In re Asbestos Prod. Liab. Litig.* (No. VI), 771 F. Supp. 415, 416 (J.P.M.L. 1991) (centralizing cases involving nearly 500 defendants). *See also In re Generic Digoxin & Doxycycline Antitrust Litig.*, 222 F. Supp. 3d 1341, 1343 (U.S. Jud. Pan. Mult. Lit. 2017) (centralizing litigation involving more than 50 defendants selling dozens of different products subject to common price fixing allegations);[8] *In re Juul Labs, Inc., Mktg., Sales Practices, & Prod. Liab. Litig.*, 396 F. Supp. 3d 1366, 1367–68 (U.S. Jud. Pan. Mult. Lit. 2019) (centralizing more than 40 actions involving more than 80 defendants);[9] *In re Valsartan N-*

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[7] *See also id.* at https://ecf.ohnd.uscourts.gov/cgi-bin/qryParties.pl?238494 ("Parties") (confirming that this MDL involves more than 600 defendants).

[8] *See also id*. MDL No. 2724 2:16-md-02724-CMR, Dkt. 1382 at 2–10, 1394 at 3 (confirming that this MDL involved more than fifty defendants).

[9] *See also id*. MDL No. 2913, 3:19-md-02913, Dkt. 551 at 19-20 (confirming that this MDL involves more than 70 defendants).

Nitrosodimethylamine (NDMA) Contamination Prod. Liab. Litig., 363 F. Supp. 3d 1378, 1380–82 (U.S. Jud. Pan. Mult. Lit. 2019) (centralizing claims against more than 90 defendants manufacturing different products in different states).[10]

Here, coordinated proceedings would provide the additional benefit of accelerating potential resolution by streamlining adjudication of the central questions common across cases. Instead of litigating jurisdiction and venue, the scope of discovery, and class certification in dozens of courts around the country, a coordinated proceeding could focus the parties on the litigation that is necessary to begin resolving core questions relevant to lenders' obligation to pay agent fees. Even if some discovery and pre-trial questions require a more case-specific approach, that work is best performed (or allocated) by a single judge familiar with all of the issues and parties. *See In re Resource Exploration, Inc. Sec. Litig.*, 483 F. Supp. 817, 821 (J.P.M.L. 1980) (explaining that transfer and centralization can "ensure that the actions are supervised by a single judge who, from day-to-day contact with all aspects of the litigation, will be in the best position to design a pretrial program that will prevent duplicative discovery ... and substantially conserve the time and efforts of the parties, the witnesses and the federal judiciary"). MDL judges are afforded significant flexibility to track, subdivide, transfer, or even remand issues as needed to progress litigation efficiently and fairly. *In re Lehman Bros. Holdings, Inc., Sec. & Employee Ret. Income Sec. Act (ERISA) Litig.*, 598 F. Supp. 2d 1362, 1364 (U.S. Jud. Pan. Mult. Lit. 2009) (finding that a single court is best positioned to formulate a pre-trial program that can streamline the adjudication of multiple related claims against numerous defendants and "leav[ing] the extent of coordination or consolidation of [certain] actions to the discretion of the transferee judge"); *In re Nat'l Prescription Opiate Litig.*, 290 F. Supp. 3d at 1378–79 ("[t]he transferee judge might

[10] *See also id.* MDL No. 2875 1:19-md-02875, Dkt. 398 (confirming that this MDL involved more than 90 defendants).

find it useful, for example, to establish different tracks for the different types of parties or claims").

Rejecting centralization (i.e., having dozens or even hundreds of separately litigated federal cases) would result in gross inefficiencies, duplication of effort, and waste of party and judicial resources. Under that suboptimal scenario, the parties and multiple courts would expend significant resources litigating and adjudicating common elements of the same questions over and over again in different jurisdictions, also raising the possibility (if not inevitability) of inconsistent rulings of all kinds. Such a scattershot approach would not only virtually guarantee divergent rulings on central questions, it could also encourage gamesmanship among the parties to accelerate and decelerate different cases at different times in the hopes of gaining a strategic advantage. In addition to the duplication and delays, such an outcome has the potential to produce disparate and unfair outcomes for different plaintiffs and defendants, depending on when and where their cases were tried.

The very real problems with rejecting centralization are particularly acute here, where the litigation will inevitably involve, and likely be dominated by, numerous class actions. Because the plaintiff businesses were subject to lender policies of refusing to pay agent fees, most if not all of the agents have a common cause of action against the lenders. Many such cases may well be tried as class actions. In this context, centralization becomes of paramount importance: "It is in the field of class action determinations in related multidistrict civil actions that the potential for conflicting, disorderly, chaotic judicial action is the greatest." *In re Plumbing Fixture Cases*, 298 F. Supp. at 493; *accord In re Multidistrict Private Civ. Treble Damage Litig. Involving Plumbing Fixtures*, 308 F. Supp. 242, 244 (J.P.M.L. 1970) ("[A] potential for conflicting or overlapping class actions presents one of the strongest reasons for transferring such related actions to a single district for coordinated or consolidated pretrial proceedings which will include an early resolution of such potential conflicts."). *See also In re CertainTeed Corp. Roofing Shingle Products Liability Litigation*, 474 F. Supp. 2d 1357, 1358 (J.P.M.L. 2007) (centralizing actions that involved "overlapping putative class actions."); *In re Enron Secs. Derivative & ERISA Litig.*, 196 F. Supp. 2d 1375, 1376 (J.P.M.L. 2002) (granting transfer in part to prevent inconsistent pretrial rulings, especially concerning class certification).

Given the centrality of common facts and questions, and the strong chance that cases here will in substantial part proceed on a class action basis, there is every reason to expect that pre-trial proceedings will be more efficient if this litigation is coordinated.

III. The Southern District of New York is an Appropriate Venue for this MDL.

While no single factor dictates the appropriate transferee selection, the Panel does consider *inter alia* where the largest number of cases is pending, the site of the occurrence of the common facts, where cases have progressed the furthest, where cost and inconvenience will be minimized, and the experience, skill, and caseloads of available judges. Manual for Complex Litigation, Fourth §20.131. The Related Actions are pending in districts around the country. Plaintiffs and defendants alike are geographically dispersed. The Southern District of New York is the most appropriate venue because it has a strong nexus to the occurrence of the common facts, and has a large number of Related Actions (four), all of which have already been related to the Honorable Jed S. Rakoff, Senior District Judge for the U.S. District Court for the Southern District of New York, an eminently well-qualified judge to oversee this litigation.

A. The Southern District of New York Has a Strong Nexus to the Harm, Is Convenient for the Parties, and Is Capable of Handling the MDL.

MDLs are often coordinated in the district with the strongest nexus to the harm. *In re Deepwater Horizon*, 731 F. Supp. 2d at 1355 (centralizing cases arising from an oil spill impacting multiple states in the district where the oil caused the most harm). While this litigation is unquestionably national in scope, to the extent any region here can be characterized at the center of harm, it is New York. First, New York has the highest concentration of accountants and auditors in the country.[11] The location quotient (the ratio of the area concentration of occupational employment to the national average concentration) for accountants and auditors in New York is 1.35, followed next closely by Texas at 1.06 and Illinois at .98.[12] New York also has the fourth highest number of PPP loans by state, and the third highest dollar value of loans by state.[13]

New York is a venue where most large lenders are at home. As the country's preeminent financial center, the Southern District of New York is the most appropriate transferee forum for an MDL relating to bank lending practices. *See In re Credit Default Swaps Antitrust Litig.*, 978 F. Supp. 2d 1374, 1375 (U.S. Jud. Pan. Mult. Lit. 2013) (centralizing banking-related actions in Southern District of New York). And, to the extent travel is required for court hearings, the Southern District's Manhattan courthouse is conveniently accessed from three major international airports with numerous flight options to virtually any other major U.S. airport. And New York is as likely as any location to be convenient for the largest number of parties. *See In re Rhodia S.A., Sec. Litig.*, 398 F. Supp. 2d 1359, 1360 (Jud. Pan. Mult. Lit. 2005) (centralizing actions in Southern District of New York as an "accessible, metropolitan location" where no district stood out as focal point of litigation and parties and witnesses were geographically dispersed).

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[11] Bureau of Labor Statistics, https://www.bls.gov/oes/current/oes132011.htm#st (last visited June 17, 2020).
[12] *Id*.
[13] https://www.sba.gov/sites/default/files/2020-06/PPP_Report_20200612-508.pdf (last visited June 17, 2020)

While S.D.N.Y. has a busy docket, it more than handles its civil caseload. The number of pending cases per judgeship is 668, which approximates the national average of 675.[14] The average time from filing to civil trial is 31.0 months, which is only slightly slower than the national average of 27.8 months, but still faster than half of districts nationally.[15] The Southern District of New York is well-used to handling MDL proceedings, with 18 such actions currently pending.[16]

B. <u>The Honorable Jed. S. Rakoff Is the Most Appropriate Transferee Judge.</u>

The Honorable Jed S. Rakoff, Senior District Judge in the U.S. District Court for the Southern District of New York, is an experienced transferee judge who would be an ideal jurist to oversee this litigation. A district court judge since 1996, Judge Rakoff is well-known to the Panel, having successfully presided over no fewer than five previous or ongoing MDLs. These include several banking and finance-related litigations, such as *In re Refco Inc. Securities Litigation* (MDL No. 1902); *In re Merrill Lynch & Co., Inc., Securities, Derivative & "ERISA" Litigation* (MDL No. 1933); and *In re Nine West LBO Securities Litigation* (MDL No. 2941). As the Panel recently concluded in transferring the latter MDL to his docket, "Judge Jed S. Rakoff is an experienced transferee judge, and we are confident he will steer this litigation on a prudent and expeditious course to resolution." *In re Nine W. LBO Sec. Litig.*, No. MDL 2941, 2020 WL 2847269, at *2 (U.S. Jud. Pan. Mult. Lit. June 2, 2020).

Four Related Actions are currently pending before Judge Rakoff. The first-filed of these, *Quinn et al. v. JPMorgan Chase Bank, N.A. et al.*, No. 1:20-cv-04100-JSR (S.D.N.Y.) (hereafter

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[14] *See* Federal Court Management Statistics–Profiles, U.S. Courts (Mar. 31, 2019), available at https://www.uscourts.gov/sites/default/files/data_tables/fcms_na_distprofile0331.2020.pdf (hereafter, "FCMS Profiles") (last accessed June 16, 2020).

[15] *Id.*

[16] MDL Statistics Report - Distribution of Pending MDL Dockets by District (June 15, 2020), available at https://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDL_Dockets_By_District-June-15-2020.pdf (last accessed June 16, 2020).

"*Quinn v. JPMorgan*"), was randomly assigned to Judge Rakoff. Over the objections of defendants Citibank and Union Bank,[17] Judge Rakoff thereafter related and accepted for reassignment actions against Signature Bank, Union Bank, and Citibank.[18] The parties to these four actions already have filed an initial joint Rule 26(f) plan for discovery and Judge Rakoff has set an initial court conference to take place on June 23, 2020.

In addition to relating these four agent fee actions before Judge Rakoff, the Southern District of New York also rejected JPMorgan's separate request to relate *Quinn v. JPMorgan* to an earlier-filed PPP ***borrower*** action, entitled *Ryan M. Kull et al. v. Chase Bank USA, N.A. et al.*, No. 1:20-cv-03138-NRB (S.D.N.Y.).[19] *See* footnote 4, *supra*. This is important insofar as it demonstrates that Judge Rakoff and the Southern District of New York appreciated immediately the fundamental distinction between PPP ***agent fee*** cases and PPP ***borrower*** cases, which appear to be the subject of several different Section 1407 transfer motions. *See* MDL Nos. 2944, 2952, and 2954.

IV. Alternatively, the Panel Should Transfer the Actions to the Northern District of Illinois.

There are currently three Related Actions pending in this district. *See A.D. Sims, LLC v. Wintrust Financial Corp at al.*., 1:20-cv-02644 (assigned to Judge Chang); *Prinzo & Associates, LLC v. BMO Harris Bank, N.A.*, et. al., 1:20-cv-03256 (assigned to Judge Feinerman), and

[17] *See Quinn et al. v. JPMorgan Chase Bank, N.A. et al.*, No. 1:20-cv-04100-JSR (S.D.N.Y.) at Dkt Nos. 16 (Citibank Opp. to Fahmia's Related Case Statement) and 17 (Union Bank Opp. to Fahmia's Related Case Statement).

[18] *See* June 8, 2020 docket entries on S.D.N.Y. Docket Sheet for *Quinn v. Signature* (reproduced at MDL 2950 Dkt. No. 98-4), June 9, 2020 docket entries on S.D.N.Y. Docket Sheet for *Fahmia v. MUFG* (MDL 2950 Dkt. No. 98-5), June 9, 2020 docket entries on S.D.N.Y. Docket Sheet for *Fahmia v. Citibank* (MDL 2950 Dkt. No. 98-6).

[19] *See Ryan M. Kull et al. v. Chase Bank USA, N.A. et al.*, No. 1:20-cv-03138-NRB (S.D.N.Y.) at Dkt. No. 9 (JPMorgan June 4, 2020 Notice of Related Action identifying *Quinn v. JPMorgan*), Dkt. No. 10 (Quinn Plaintiffs' Response), and Dkt. No. 11 (JPMorgan Reply). These filings were in the form of letters addressed to the Hon. Naomi Reice Buchwald (presiding over the *Kull* action), with copies provided to Judge Rakoff. Judge Rakoff's chambers ultimately responded to JPMorgan's counsel by email clarifying that Judge Buchwald had determined that *Quinn v. JPMorgan* was not related to *Kull* and, "[a]ccordingly, the *Quinn [v. JPMorgan]* action, as well as three other cases related to it … will remain with Judge Rakoff."

Respondent's case, *Winner v. PNC Financial Services Group, Inc.*, 1:20-cv-03515 (assigned to Judge Pallmeyer). Given the high concentration of agents in the Chicago metropolitan area, there are likely to be more cases filed in this district in short order.[20]

The district is well-suited to handle a large MDL. It has 30 district judges and 15 magistrate judges, with approximately 703 pending cases per judgeship,[21] which is only slightly over the national average of 675.[22] The average time from filing to civil trial is 39 months, which puts it at roughly the median nationally.[23] There are currently seven MDLs pending in the Northern District of Illinois,[24] showing that it is well conditioned to handle MDL proceedings.

All three judges presiding over Related Cases in this district are very well-qualified to oversee this MDL. Judge Edmond E. Chang has been a district judge for ten years, and has handled many complex class actions.[25] Judge Feinerman has likewise been a district judge for ten years, and is currently overseeing the *In re: 100% Grated Parmesan Cheese Marketing and Sales Practices Litigation* (MDL No. 2705). Judge Pallmeyer is the Chief Judge of the District, and has been on the bench for over twenty years. She is currently overseeing the *In re Zimmer NexGen Knee Implant Products Liability Litigation* (MDL No. 2272).

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[20] Bureau of Labor Statistics, https://www.bls.gov/oes/current/oes132011.htm#st (last visited June 17, 2020).

[21] *See* Federal Court Management Statistics–Profiles, U.S. Courts (Mar. 31, 2019), available at https://www.uscourts.gov/sites/default/files/data_tables/fcms_na_distprofile0331.2020.pdf (hereafter, "FCMS Profiles") (last accessed June 17, 2020).

[22] *Id.*

[23] *Id*.

[24] *See* https://www.ilnd.uscourts.gov/mdl-details.aspx?WNesDQBcWakSF/4TSCIYmQ== (last visited June 17, 2020).

[25] *See, e.g.*, *Leung v. XPO Logistics, Inc.*, 326 F.R.D. 185 (N.D. Ill. 2018); *Ploss as Tr. for Harry Ploss Tr. DTD 8/16/1993 v. Kraft Foods Grp., Inc.*, 431 F. Supp. 3d 1003 (N.D. Ill. 2020).

Finally, Chicago is unquestionably a major metropolitan area with ease of access to the courthouse from two international airports. And it is centrally located, meaning it will be a convenient location for parties and witnesses, should in-person travel resume.

V. Conclusion

For the forgoing reasons, we respectfully request that the Panel coordinate these actions, and transfer them to Judge Rakoff in the Southern District of New York, or to Judge Chang, Judge Feinerman, or Judge Pallmeyer in the Northern District of Illinois.

Dated: June 17, 2020

Respectfully submitted,

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