

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

**IN RE WELLS FARGO PAYCHECK
PROTECTION PLAN LITIGATION**

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MDL DOCKET NO: _____

**PLAINTIFF’S MOTION FOR TRANSFER OF ACTIONS TO THE SOUTHERN
DISTRICT OF TEXAS PURSUANT TO 28 U.S.C. § 1407 FOR COORDINATED OR
CONSOLIDATED PRETRIAL PROCEEDINGS**

Plaintiffs DNM Contracting, Inc. (“DNM” or “Movant”) in the Southern District of Texas, respectfully moves, pursuant to 28 U.S.C. § 1407 and Rule 6.2 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation (“JPML”), for an order transferring the actions listed on the attached Schedule of Actions (the “Related Actions”), as well as any tag-along actions or other cases that may be filed asserting related or similar claims, to the Southern District of Texas for centralization of the actions for coordinated or consolidated pretrial proceedings.

Transfer and consolidation or coordination is appropriate for the following reasons:

1. To date, there are already eight (8) putative nationwide class actions (collectively “Related Actions”) pending in six (6) different districts: Southern District of Texas; Central District of California; Southern District of Florida; Northern District of California; District of Colorado; and Southern District of California. The Related Actions all involve common questions of fact and assert substantially similar claims and legal theories against Wells Fargo Bank. and/or WELLS FARGO, N.A.; and DOES 1- 10. (collectively “Defendants”).
2. Plaintiffs in each of the Related Actions contend that Defendants violated state laws

and their fiduciary duties when they failed to implement and follow the Small Business Administration's ("SBA") rules and regulations requiring, among other things, that applications be processed on a "first-come, first-served" basis. Specifically, all actions allege that Defendants intentionally or negligently engaged in wrongful conduct in approving (or denying) applications for loans available through the federal Paycheck Protection Program ("PPP"), including favoring or prioritizing applications in processing time or order.

3. Each of the Related Actions seek relief for losses incurred by the wrongful conduct by Defendants, including monetary damages and penalties, injunctive relief, as well as punitive damages and declaratory relief. Each action also seeks certification of nationwide or state classes of PPP applicants that were harmed by Defendants' wrongful conduct.
4. Movant DNM seeks the transfer and assignment of the Related Actions to the Southern District of Texas in front of the Honorable Judge Alfred H. Bennett for coordinated or consolidated pretrial proceedings.
5. As explained in more detail in the supporting brief, the central issue in all the Related Actions is whether Defendants violated state laws, their fiduciary duties, and applicable SBA and other rules and regulations in processing PPP loan applications, including by wrongfully prioritizing or favoring (a) certain businesses over other businesses; (b) more prized customers over lesser prized customers; and (c) applications for larger loans over applications for smaller loans, all so Defendants would incur benefits.
6. All of the Related Actions were filed after April 11, 2020, so all of the cases are in

their infancy. Written discovery has not commenced in any of the actions and, at the time of this filing, no scheduling orders have been entered for any of the Related Actions.

7. Absent pretrial coordination or consolidation, the possibility of inconsistent pretrial rulings exists on issues such as the proper scope and extent of discovery, class certification, and other factual and legal matters, thus warranting transfer and coordination or consolidation of the Related Actions.
8. The convenience of the courts, witnesses, parties, and counsel will all be served by transfer of these cases to the United States Judicial Panel on Multidistrict Litigation for centralization of the actions in the Southern District of Texas for coordinated or consolidated pretrial proceedings so that all cases may be consolidated under one court for coordinated pretrial proceedings.

In support of this motion, Movant files:

- a) a Brief describing the background of the litigation and the Movants' factual and legal contentions;
- b) a numbered Schedule of Actions providing (1) the complete name of each action involved, listing the full name of each party included; (2) the district court and division where each action is pending; (3) the civil action number of each action; and (4) the name of the Judge assigned to each action;
- c) a copy of all complaints and docket sheets for all actions listed on the Schedule of Actions;

WHEREFORE, Movant respectfully requests that the Panel grant its motion and transfer the Related Actions, for coordinated and consolidated pretrial proceedings, to the United States Judicial Panel on Multidistrict Litigation for centralization of the actions in the Southern District

of Texas for coordinated or consolidated pretrial proceedings.

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