

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: STANFORD ENTITIES
SECURITIES LITIGATION

Miguel Rishmague, et al. v. Robert S. Winter, et al.,)
W.D. Texas, C.A. No. 5:11-290) MDL No. 2099

TRANSFER ORDER

Before the Panel*: Pursuant to Rule 7.1, plaintiffs move to vacate our order that conditionally transferred their action to MDL No. 2099. Certain defendants¹ oppose the motion and favor inclusion of *Rishmague* in MDL No. 2099.

After reviewing the argument of counsel, we find that *Rishmague* involves common questions of fact with actions in this litigation previously transferred to MDL No. 2099, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Moreover, transfer is warranted for reasons set out in our original transfer order which held that the Northern District of Texas is an appropriate Section 1407 forum for actions arising out of alleged misrepresentations or omissions as to the safety of Stanford² investments (primarily SIB certificates of deposit). See *In re Stanford Entities Sec. Litig.*, 655 F. Supp. 2d 1360 (J.P.M.L. 2009).

In opposing transfer or asking the Panel to defer its ruling until the Western District of Texas rules on their pending remand motion, the *Rishmague* plaintiffs argue that *Rishmague* is not a “covered class action” and was not properly removed under the Securities Litigation Uniform Standards Act, 15 U.S.C. § 77p(f)(2)(A)(ii) (SLUSA). Plaintiffs further argue that Section 1407 transfer of *Rishmague* to MDL No. 2099 may have the unintended consequence of converting *Rishmague* into a “covered class action” under SLUSA.

We find this argument unpersuasive. The Panel often has held that a pending motion for remand is not a bar to transfer. See, e.g., *In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Ins.*

* Judges Paul J. Barbadoro and Marjorie O. Rendell took no part in the decision of this matter.

¹ Willis of Colorado, Inc.; Willis of Texas Inc.; and Bowen, Miclette & Britt, Inc.

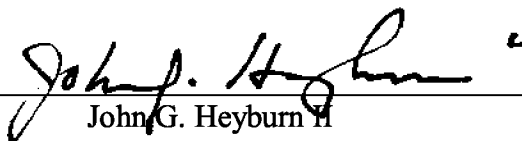
² Stanford International Bank, Ltd. (SIB); Stanford Group Co.; and Stanford Capital Management (collectively Stanford).

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Co. of America Sales Practices Litig., 170 F. Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The transferee court is currently poised to rule on the applicability of SLUSA to the MDL No. 2099 actions, including at least one “insurance letter” case similar to *Rishmague*. In the interest of economy and efficiency, the issues raised by the *Rishmague* plaintiffs are best addressed to the transferee judge.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Northern District of Texas and, with the consent of that court, assigned to the Honorable David C. Godbey for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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