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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

LEHMAN BROTHERS SECURITIES AND
ERISA LITIGATION

This document applies to:

09 MD 2017 (LAK)

Detherow v Fuld 09 Civ. 1230 (LAK)
Mease & Caldwell v Fuld, 09 Civ. 1231 (LAK)
Mease v Fuld 09 Civ. 1232 (LAK)
Shipley v Fuld 09 Civ. 1235
Napierala v Fuld 09 Civ. 1237 (LAK)

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PRETRIAL ORDER NO. 24
(Motion to Consolidate and Amend)

LEWIS A. KAPLAN, *District Judge*.

These five actions were removed from Arkansas state courts. Plaintiffs here move to consolidate them and for leave to file a consolidated amended complaint. They describe this motion as being made in the alternative to motions to remand which, they say, "are currently pending before this Court." 09 Civ. 1230, DI 69, at 2. In fact, however, plaintiffs withdrew their motions to remand more than two years ago. 09 MD 2017, DI 14, at 4-5; *see also* 09 MD 2017, PTO No. 4. In consequence, there is nothing "alternative" about this motion.

Insofar as the motions seek consolidation and leave to amend to pursue the named plaintiffs' individual claims, there is no opposition. Defendants object, however, to amendment to the extent that plaintiffs seek to pursue these claims as Lead Plaintiffs on behalf of classes. They contend, among other things, that plaintiffs have failed to comply with the Private Securities Litigation Reform Act relating to class actions.

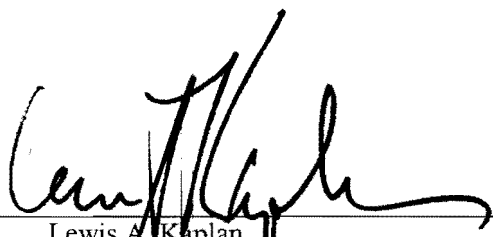
In PTO No. 9, the Court declined to deal with such a contention, stating that there would be sufficient occasion for doing so in the event the plaintiffs seek class certification. Those comments apply here.

Accordingly, the motion to consolidate these five actions and for leave to file a consolidated amended complaint in the consolidated action [09 Civ. 1230 DI 68, 09 Civ. 1231 DI 67, 09 Civ. 1232 DI 69, 09 Civ. 1235 DI 68, 09 Civ. 1237 DI 67] is granted.

Counsel for these plaintiffs shall confer with the Clerk's Office to ensure that papers filed in any of these actions are docketed also in 09 MD 2017.

SO ORDERED.

Dated: December 14, 2011



Lewis A. Kaplan
United States District Judge