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ATTEST

By Darion Payne on Aug 17, 2010

FOR THE UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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Aug 17, 2010

FILED
CLERK'S OFFICE

**IN RE: LEHMAN BROTHERS HOLDINGS, INC.,
SECURITIES & EMPLOYEE RETIREMENT
INCOME SECURITY ACT (ERISA) LITIGATION**

Retirement Housing Foundation, et al. v. Richard S. Fuld, et al.,)
C.D. California, C.A. No. 2:10-2746)

MDL No. 2017

TRANSFER ORDER

Before the entire Panel: Plaintiffs in this California action (*RHF*) move pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), asking the Panel to vacate its order conditionally transferring *RHF* to the Southern District of New York for inclusion in MDL No. 2017. Four Lehman Brothers Holdings, Inc. (Lehman Brothers) officer and/or director defendants oppose the motion as does outside auditor defendant Ernst & Young.

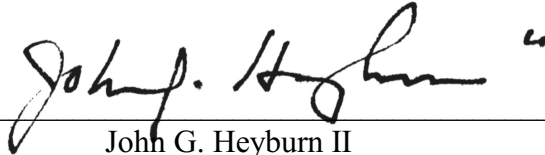
After considering all argument of counsel, we find that this action involves common questions of fact with actions in this litigation previously transferred to the Southern District of New York. Transfer of *RHF* to the Southern District of New York for inclusion in MDL No. 2017 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. We further find that transfer of this action is appropriate for reasons that we set out in our original order directing centralization in this docket. In that order, we held that the Southern District of New York was a proper Section 1407 forum for actions arising out of allegations that defendants made materially false and/or misleading statements which had a negative impact on Lehman Brothers securities. See *In re Lehman Brothers Holdings, Inc., Securities & Employee Retirement Income Security Act (ERISA) Litigation*, 598 F.Supp.2d 1362 (J.P.M.L 2009). Whether the actions are brought by securities holders seeking relief under the federal securities laws, the ERISA statute or various state statutes, all actions are expected to focus on a significant number of common events, defendants, and/or witnesses.

RHF is distinguishable from two other actions brought by Retirement Housing Foundation (*RHF*) which we decided were not appropriate for inclusion in this MDL. *In re Lehman Brothers Holdings, Inc., Securities & Employee Retirement Income Security Act (ERISA) Litigation*, MDL No. 2017 (J.P.M.L. Aug. 10, 2009). In the other two actions, the *RHF* plaintiffs sued as issuers of auction rate securities, not as purchasers of Lehman Brothers securities. Although the *RHF* plaintiffs alleged in the other two actions that defendants made misrepresentations and/or omissions concerning Lehman Brothers's financial viability, these factual questions did not predominate over unique factual questions relating to the *RHF* plaintiffs' complex auction rate securities refinancing plan, swap transactions and performance of any insurance bond contract.

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IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Lewis A. Kaplan for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is written above a horizontal line. The signature is cursive and includes a small mark at the end.

John G. Heyburn II
Chairman

Robert L. Miller, Jr.
David R. Hansen
Frank C. Damrell, Jr.

Kathryn H. Vratil
W. Royal Furgeson, Jr.
Barbara S. Jones