

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: NEW YORK TAX FORECLOSURE
SURPLUS LITIGATION

MDL No. _____

**BRIEF IN SUPPORT OF MAJORITY PLAINTIFFS' MOTION TO CENTRALIZE THE
NEW YORK TAX FORECLOSURE SURPLUS CASES IN THE NORTHERN DISTRICT
OF NEW YORK FOR COORDINATED OR CONSOLIDATED PRETRIAL
PROCEEDINGS**

Pursuant to 28 U.S.C. § 1407 and Rule 6.2 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation (the "Panel"), the *Merckx* Plaintiffs,¹ who filed the first tax foreclosure surplus class action case, and the Individual Plaintiffs,² who together are litigating eighty-nine

¹ The "*Merckx* Plaintiffs" are Daniel J. Merckx, personally and as Administrator of the Estate of Ronald P. Merckx; Timothy S. Laraway, Jr.; Barbara Snashell; Chignard Noelizaire; Martine Noelizaire; Thomas Sweeney, as Executor of the Estate of Mary Pedano; Dotty Carr, as Voluntary Administrator of the Estate of Carolyn Dell Carr; and Arthur R. McDowell.

² The "Individual Plaintiffs" are the named plaintiffs in: *Joseph Polizzi, et al. v. County of Schoharie*, N.D.N.Y., C.A. No. 1:23-01311; *Kenneth D. Anderson, et al. v. County of St. Lawrence, et al.*, N.D.N.Y., C.A. No. 8:23-01524; *Mark B. Plate, et al. v. County of Ulster, et al.*, N.D.N.Y., C.A. No.1:23-01539; *Richard Chmura, et al. v. County of Schenectady*, N.D.N.Y., C.A. No. 1:23-01574; *Mary Ellen Cossette, et al. v. County of Oneida, et al.*, N.D.N.Y., C.A. No. 6:23-01587; *Terry Ann Woloszyn, et al. v. County of Tioga, et al.*, N.D.N.Y., C.A. No. 3:23-01585; *Lisa M. Beutel et al. v. County of Jefferson, et al.*, N.D.N.Y., C.A. No. 5:23-01603; *Clear Lake Land Co., et al. v. County of St. Lawrence, et al.*, N.D.N.Y., C.A. No.8:23-01606; *Roger Sitts, et al. v. County of Saratoga, et al.*, N.D.N.Y., C.A. No. 1:23-01649; *Paul Stephens, et al. v. County of Broome, et al.*, N.D.N.Y., C.A. No.3:24-00009; *Catherine Rosetti, et al. v. County of Cayuga, et al.*, N.D.N.Y., C.A. No. 5:24-00015; *Stephen Blanchard, et al. v. County of Essex*, N.D.N.Y., C.A. No. 8:24-000250; *Bruce Armer, et al., v. County of Montgomery, et al.*, N.D.N.Y., C.A. No. 1:24-00259; *Cynthia Place, et al. v. County of Broome, et al.*, N.D.N.Y., C.A. No. 3:24-00258; *Ronald Feimann, et al. v. County of Clinton, et al.*, N.D.N.Y., C.A. No. 8:24-00257; *Robert White, et al. v. County of Rensselaer, et al.*, N.D.N.Y., C.A. No. 1:24-00281; *Randall Vose, et al. v. County of Fulton, et al.*, N.D.N.Y., C.A. No. 1:24-00281; *James Deandrea, et al. v. County of Otsego, et al.*, N.D.N.Y., C.A. No. 6:24-00287; *Cynthia Rich, et al. v. County of Warren, et al.*, N.D.N.Y., C.A. No. 1:24-00314; *Michael Vaughn, et al. v. County of Washington, et al.*, N.D.N.Y., C.A. No. 1:24-00327; *Fred Bush, et al. v. County of Schoharie*, N.D.N.Y., C.A. No. 1:24-00328; *ARMF Realty LLC, et al. v. County of Orange, et al.*, S.D.N.Y., C.A. No. 7:23-11034; *Gloria Cavaluzzi, et al. v. County of Sullivan*, S.D.N.Y., C.A. No. 1:23-11067; *Randall Lee Bose, et al. v. County of Dutchess, et al.*, S.D.N.Y., C.A. No. 7:24-01809; *Mark Dickens, et al. v. County of Allegany, et al.*, W.D.N.Y., C.A. No. 1:23-01332; *Denise Lawrence, et al. v. County of Wayne, et al.*, W.D.N.Y., C.A. No. 6:24-06017; *Nicholas R. Dowd, et al. v. County of Niagara, et al.*, W.D.N.Y., C.A. No. 1:24-00037; *Walter Barnard, et al. v. County of Chautauqua*, W.D.N.Y., C.A. No. 1:24-00154; *Laura Williamson, et al. v. County of Steuben*, W.D.N.Y., C.A. No. 6:24-06129; *Elizabeth Sevinsky, et al. v. County of Cattaraugus, et al.*, W.D.N.Y., C.A. No. 1:24-00186; *WCMCG LLC, et al. v. County of Seneca, et al.*, W.D.N.Y., C.A. No. 6:24-06142; *Paul Smith v. County of Niagara, et al.*, W.D.N.Y., C.A. No. 1:24-00207.

percent (89%) of the federal tax foreclosure surplus cases in New York (collectively, the “Majority Plaintiffs”), respectfully submit this Memorandum of Law in support of their Motion to centralize thirty-seven (37) tax foreclosure surplus cases pending in the Northern, Southern, and Western Districts of New York in the Northern District before the Honorable Lawrence E. Kahn, who is handling the first-filed tax foreclosure surplus class action.

The requirements for the creation of a multidistrict litigation (“MDL”) under 28 U.S.C. § 1407 are satisfied. There are multiple cases pending in different Districts that involve one or more common questions of fact and law. Transfer to the Northern District of New York will promote the just and efficient conduct of such actions and the convenience of parties and witnesses. The Northern District of New York is the most appropriate transferee District because twenty-three (23) of the thirty-seven (37) cases are pending there.

I. INTRODUCTION

Thirty-seven (37) civil actions (the “Actions”) have been filed in three New York Districts, each alleging that Plaintiffs were damaged by government retention of surplus proceeds or equity, in excess of taxes and fees owed, after foreclosing on real estate for nonpayment of taxes.

The Actions involve common questions of fact and law about the retention of surplus proceeds following foreclosure and sale of properties by New York taxing authorities. All of the Actions stem from the Supreme Court’s recent decision, *Tyler v. Hennepin County*, 598 U.S. 631 (2023), in which the Court held that the practice of a government entity retaining surplus proceeds after tax foreclosure is an unconstitutional taking of private property without just compensation. Three of the Actions seek class action status, although the class definitions and periods in two of the later-filed class actions differ from (and are subsumed within) the class definitions alleged in the moving *Merckx* Plaintiffs’ complaint.

Centralization is appropriate here not only because there are already thirty-seven Actions pending, but also because there are scores of additional taxing authorities that are subject to the same claims as those raised here, so additional actions are likely to be brought throughout the state. It makes no sense for pretrial proceedings to be conducted in each of the many courts in which such Actions have been, and will be, brought.

As set forth in the Motion and herein, all the requirements for §1407 centralization are present. Establishing a New York tax foreclosure surplus litigation MDL in the Northern District of New York would thus further the goals of the MDL statute by promoting the just, convenient, and efficient conduct of the Actions under §1407 and Fed. R. Civ. P. 1.

II. BACKGROUND

As of the time of filing this Motion, the Majority Plaintiffs are aware of thirty-seven (37) Actions pending in three New York Districts: twenty-three (23) are pending in the Northern District of New York; six (6) are pending in the Southern District of New York; and eight (8) are pending in the Western District of New York.

A. The Northern District of New York Actions

The *Merckx* Plaintiffs filed the first tax foreclosure class action suit in any New York federal district. The operative complaint alleges that Defendants Cattaraugus County, Rensselaer County, the City of Port Jervis, and the City of Buffalo, by their respective municipal officers, wrongfully retained surplus proceeds from the sale of tax-foreclosed properties. The *Merckx* Plaintiffs assert claims for violations of the Takings Clause of the Fifth Amendment to the U.S. Constitution, the Excessive Fines Clause of the Eighth Amendment to the U.S. Constitution, and the Takings Clause and Excessive Fines Clause of the New York Constitution; seek a declaratory judgment that Article 11 is unconstitutional; and also bring state-law claims for unjust enrichment,

money had and received, equitable accounting, inverse condemnation, and injunctive relief. The claims are asserted on behalf of a plaintiff class, which is defined as follows:

All Persons and entities, their heirs and successors, who owed or had an ownership interest in real property that a Local Government Defendant or member of Defendant Class seized to satisfy unpaid real estate taxes and associated charges and that was subsequently: (1) sold during the Class Period for more than the amount necessary to satisfy such taxes and associated charges and the local government tax authority offered no opportunity for the taxpayer to recover the surplus proceeds; or (2) retained by the local government tax authority during the Class Period and the value of the retained property exceeds such taxes and associated charges and the local government entity offered no opportunity for the taxpayer to recover the excess value.

The *Merckx* Plaintiffs additionally seek certification of a defendant class defined as follows:

All local government tax authorities in New York that either: (1) sold real property for non-payment of taxes or other local government charges during the Class Period for a sum greater than the debt and associated charges owed to the tax authorities, and offered no opportunity for the taxpayer to recover the surplus proceeds; or (2) took ownership of and retained real property for non-payment of taxes or other local government charges during the Class Period worth more than the debt and associated charges owed to the tax authorities, and offered no opportunity for the taxpayer to recover the excess value.

Another class action, captioned *Steele, et al. v. Saratoga County, et al.*, was subsequently filed in the Northern District of New York. C.A. No. 1:23-cv-01615 (N.D.N.Y). The *Steele* complaint asserts nearly identical federal and state law claims arising from the Supreme Court's *Tyler* decision as those asserted in *Merckx*, and seeks certification of the following plaintiff class:

All owners of property in the state of New York: 1) where such property was seized or otherwise subject to foreclosure for unpaid taxes and associated obligations; 2) the property was either a) sold in foreclosure, or b) retained by any governmental entity; 3) the amount received in the sale, or the value of the property taken, was more than the taxes owed, that is, was in excess of the amount of the owner's debt for which the property was

taken; and 4) the owner was not given the excess. The class excludes Plaintiff's counsel and officers of the court handling this matter. The class period is 6 years before the filing of this action, and thereafter.

The remaining twenty-three cases pending in the Northern District were filed by the Individual Plaintiffs. These individual actions likewise assert claims based on *Tyler* and include a subset of the claims asserted by *Merckx* Plaintiffs.

B. The Southern District of New York Actions

A third class action, captioned *O'Hara, et al. v. Orange County, et al.*, was filed in the Southern District of New York. C.A. No. 7:23-cv-10770 (S.D.N.Y.). The *O'Hara* complaint is substantively identical to the complaint filed in *Steele* and seeks certification of the following plaintiff class:

All owners of property in the state of New York, Counties of Orange and/or Dutchess: 1) where such property was seized or otherwise subject to foreclosure for unpaid taxes and associated obligations; 2) the property was either a) sold in foreclosure, or b) retained by any governmental entity; 3) the amount received in the sale, or the value of the property taken, was more than the taxes owed, that is, was in excess of the amount of the owner's debt for which the property was taken; and 4) the owner was not given the excess. The class excludes Plaintiff's counsel and officers of the court handling this matter. The class also excludes any owners of property where the property was encumbered by any lien other than the tax lien at the time the property was foreclosed by the County. The class period is the longest period allowed by law before the filing of this action, and thereafter.

Of the five remaining Actions pending in the Southern District of New York, three of them were filed by the Individual Plaintiffs.

C. The Western District of New York Actions

The Individual Plaintiffs have also filed eight individual actions in the Western District of New York with similar claims as those in the other Actions.

III. ARGUMENT

A. Transfer of the Actions to One Court for Coordination or Consolidation is Appropriate Under 28 U.S.C. § 1407.

Transfer is appropriate “[w]hen civil actions involving one or more common questions of fact are pending in different districts,” and the Panel determines that “coordinated or consolidated pretrial proceedings . . . will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407(a); *see also In re Nifedipine Antitrust Litig.*, 266 F. Supp. 2d 1382, 1382 (J.P.M.L. 2003). Coordination or consolidation serves to “eliminate the potential for conflicting contemporaneous pretrial rulings by coordinate district and appellate courts in multidistrict related civil actions.” *In re Plumbing Fixture Cases*, 298 F. Supp. 484, 491-92 (J.P.M.L. 1968); *In re Ethicon Physiomesh Flexible Composite Hernia Mesh Prod. Liab. Litig.*, 254 F. Supp. 3d 1381, 1382 (J.P.M.L. 2017) (“Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel, and the judiciary”); *In re Capital One Customer Data Sec. Breach Litig.*, 396 F. Supp. 3d 1364, 1365 (J.P.M.L. 2019) (same). Consolidation is particularly important in multidistrict class action litigation to avoid the “pretrial chaos in conflicting class action determinations which Section 1407 was designed to make impossible.” *Plumbing Fixture Cases*, 298 F. Supp. at 493.

In the tax foreclosure surplus cases, the critical legal issues span all the Actions. There is no question that the tax foreclosure surplus cases pending in the three Districts involve common questions of law and fact that are central to every Plaintiff’s and class member’s claims—namely, the municipal governments’ retention of surplus proceeds or equity following the tax foreclosure and sale of properties and whether that violates federal and state law. The first condition for transfer under § 1407(a) is therefore satisfied.

Moreover, consideration of the relevant convenience factors strongly suggests that coordinated or consolidated pretrial proceedings will promote the orderly and efficient adjudication of these Actions and enhance the convenience of the parties. Accordingly, the second requirement for transfer is also met.

1. The Actions Involve Common Facts and Law.

Consolidation or coordination of actions involving common factual and legal questions can avoid needless replication of pretrial proceedings, regardless of the number of districts involved. *See In re Fosamax Prods. Liab. Litig.*, 444 F. Supp. 2d 1347, 1349 (J.P.M.L. 2006) (dismissing arguments about the small number of districts as “not persuasive”). Notably, “[t]ransfer under Section 1407 does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to transfer. Centralization will permit all actions to proceed before a single transferee judge who can structure pretrial proceedings to consider all parties’ legitimate discovery needs, while ensuring that common parties and witnesses are not subjected to duplicative discovery demands.” *In re Katz Interactive Call Processing Patent Litig.*, 481 F. Supp. 2d 1353, 1355 (J.P.M.L. 2007).

Here, all of the Actions (and any tag-along actions that might be expected to follow) will require discovery and factual determinations about whether surplus tax foreclosure proceeds or equity are retained by the Defendants following the sale of foreclosed properties. The legal issues will be the same, as the claims and causes of action all arise from the alleged taking of surplus proceeds or equity following foreclosure. All of the class actions seek class action status based on this scenario, although the overlapping class definitions and periods are not identical.

Coordination of the Actions by one judge would advance the purposes of Section 1407 by placing all Actions in “th[e] docket before a single judge who can formulate a pretrial program

that: 1) allows discovery with respect to any non-common issues to proceed concurrently with discovery on common issues; and 2) ensures that pretrial proceedings will be conducted in a manner leading to a just and expeditious resolution of the actions to the benefit of not just some but all of the litigation's parties." *In re Insur. Brokerage Antitrust Litig.*, 360 F.Supp.2d 1371, 1372 (J.P.M.L. 2005); *see also In re: Checking Account Overdraft Litig.*, 626 F.Supp.2d 1333, 1335 (J.P.M.L. 2009) (same). The common question of fact and law central to the Actions weighs heavily in favor of consolidation and coordination.

2. Transfer Will Serve the Convenience of the Parties and Witnesses and Will Promote the Just and Efficient Conduct of the Actions.

The Manual for Complex Litigation suggests four factors to consider when determining whether transfer will enhance the convenience of the parties and promote the just and efficient conduct of actions: (1) the elimination of duplicative discovery; (2) the avoidance of conflicting rulings and schedules; (3) the reduction of litigation cost; and (4) the conservation of the time and effort of the parties, attorneys, witnesses, and courts. *Manual for Complex Litigation (Fourth)* § 20.131, at 219-20.

Now before the Panel are thirty-seven (37) pending Actions in three Districts, and additional cases are likely to follow. All of the Actions involve the same question of fact and law regarding the retention of surplus proceeds or equity following tax foreclosure of properties. Each case stems from the Supreme Court's recent decision, *Tyler v. Hennepin County*, which directly contravened New York law that former property owners are not entitled to surplus proceeds.

Transfer for coordinated or consolidated proceedings in the New York Tax Foreclosure Surplus Litigation is therefore appropriate because there are identical questions of fact regarding the basis for the retention of surplus proceeds or equity that will not differ from one case to another.

There will be common discovery with respect to each Defendant across all of the cases. An MDL proceeding would also eliminate the possibility of inconsistent decisions on discovery issues.

All of the class actions assert constitutional claims under 42 U.S.C. § 1983 and state law against the Defendants based on the same set of common facts. And all but two of the Actions assert overlapping common law claims based on that same conduct. It would be most efficient for one court to consider and decide the procedural and substantive legal issues common to the cases, such as whether the Plaintiffs' complaints state claims upon which relief can be granted, class certification, and summary judgment, as well as myriad other issues that will arise. Having one court decide these issues eliminates any potential for inconsistent rulings in similar actions. *In re: Nat. Coll. Athletic Ass'n Athletic Grant-in-Aid Cap Antitrust Litig.*, 24 F.Supp.3d 1366, 1367 (J.P.M.L. 2014) ("The actions assert putative nationwide classes that, while not identical, overlap significantly. Centralization thus will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel, and the judiciary"). As described above, the class actions allege similar but not identical class definitions and class periods. The presence of overlapping class definitions also supports transfer of the Actions to one court. *In re Cement and Concrete Antitrust Litig.*, 437 F. Supp. 750, 752 (J.P.M.L. 1977) ("Since duplicating or overlapping classes are sought in most of the actions, transfer to a single district is desirable in order to avoid the possibility of inconsistent class determinations."); *In re Sugar Indus. Antitrust Litig.*, 395 F. Supp. 1271, 1273 (J.P.M.L. 1975) ("We have consistently held that transfer of actions under Section 1407 is appropriate, if not necessary, where the possibility of inconsistent class determinations exists").

B. The Northern District of New York is the Appropriate Forum for Centralization of the Tax Foreclosure Surplus Cases.

Transfer to the Northern District of New York and Judge Kahn is warranted. The Northern District of New York is a convenient venue for all the parties in the Actions. The first-filed tax foreclosure surplus class action is before Judge Kahn, who sits in the Albany Division of the District.³ It is the only case that seeks certification of a defendant class of all local governments, and the only case that names the Attorney General of New York as a defendant.

The Northern District has two-thirds of the pending class actions and an overwhelming majority of all the Actions. As shown in the table below, of the thirty-seven (37) actions currently pending, twenty-three (23) (62%) of them are in the Northern District.

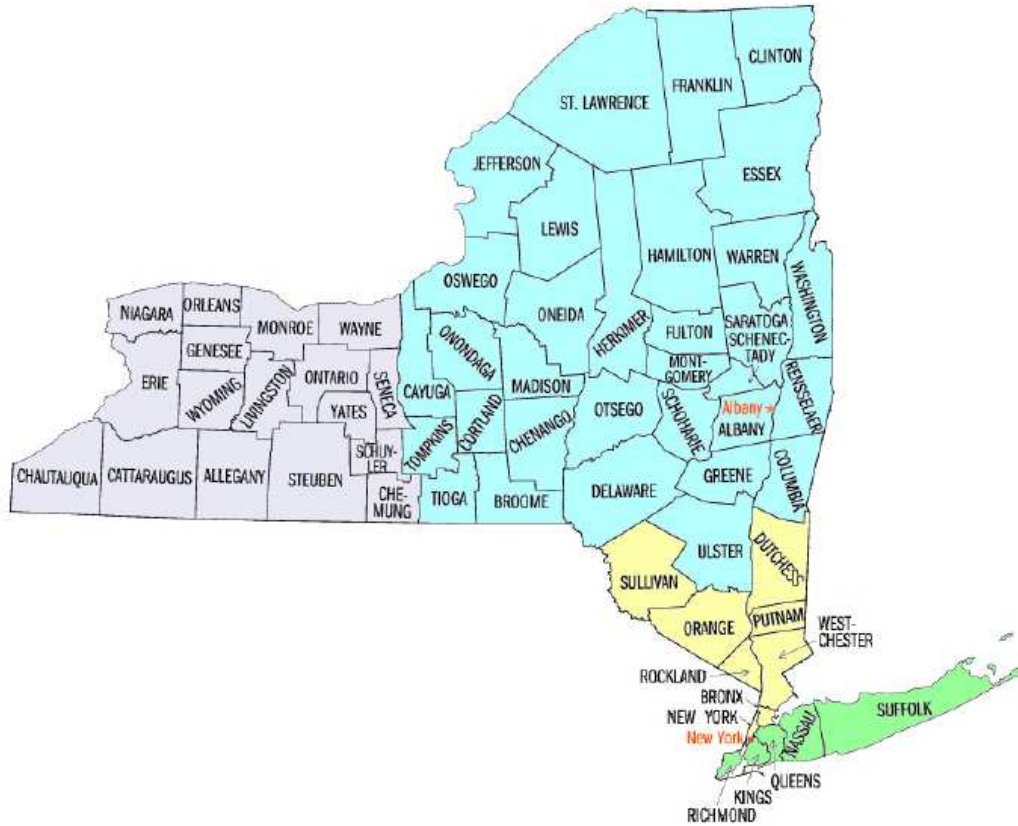
Federal District	Number of Tax Foreclosure Surplus Actions Pending
Northern District of New York	23
Western District of New York	8
Southern District of New York	6

The Northern District of New York encompasses a majority of New York's sixty-two (62) counties, many of which are Defendants in the Actions, and most, if not all, of which are potential defendants in future actions.

Federal District	Number of Counties
Northern District of New York	32
Western District of New York	17
Southern District of New York	8

³ As described above, two additional class actions have since been filed, one in the Northern District and one in the Southern District. *See supra* Sec. II A-C.

New York District Map

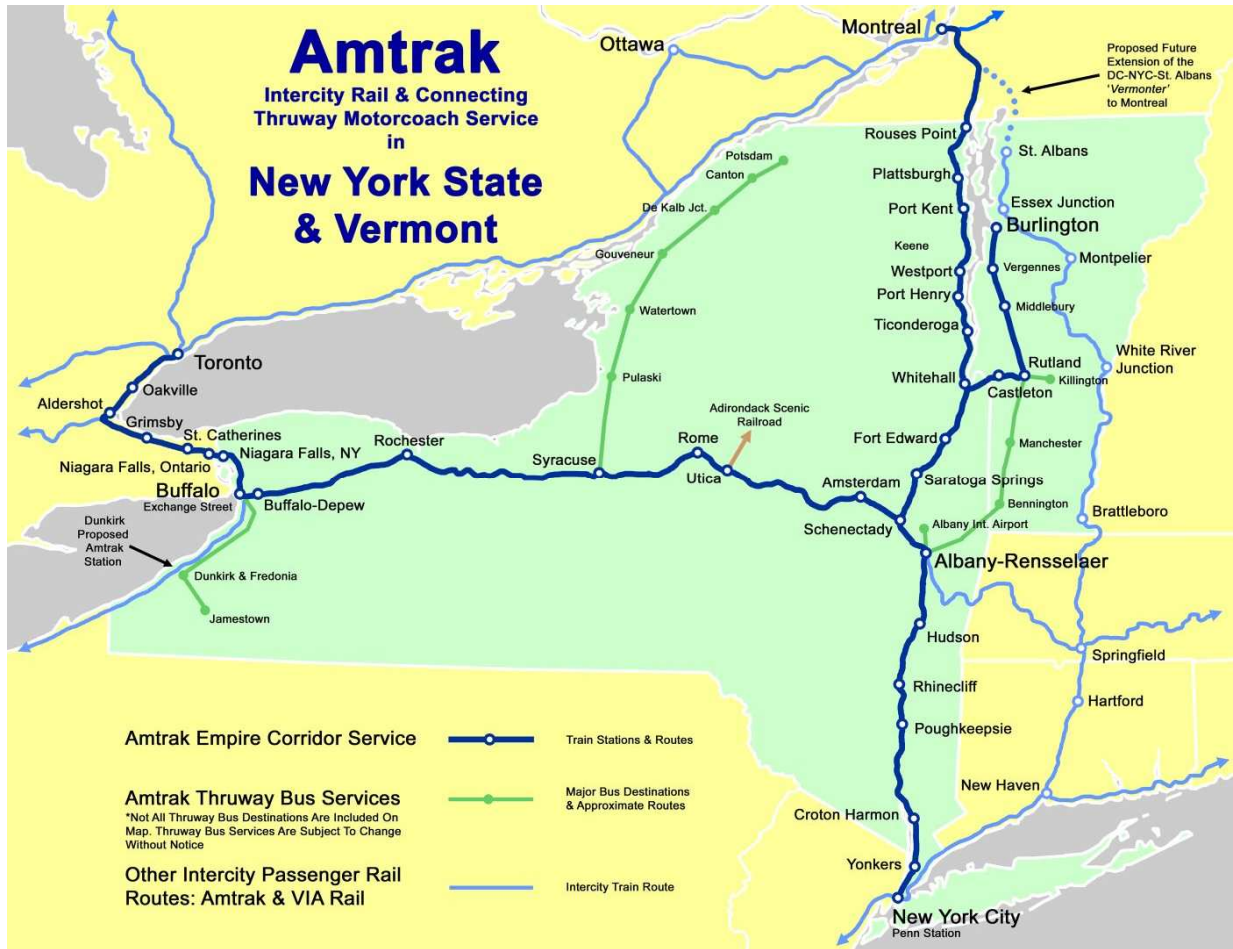


Key: Northern District is blue, Western District is violet, Southern District is yellow, and Eastern District is green.

The state government Defendants in the *Merckx* action—Letitia James, in her official capacity as Attorney General of New York, and Amanda Hiller, in her official capacity as Acting Tax Commissioner of the New York Department of Taxation and Finance—are based in Albany.

Additionally, Albany is the State capital and is therefore a suitable venue because the tax foreclosure surplus litigation is a matter of statewide importance. The Albany Division of the Court manages many such matters. For other parties not located in Albany, Albany is centrally located in the state, Albany International Airport is served by all major domestic carriers, and Albany is

served by Amtrak. Accordingly, the Northern District of New York is a convenient location for the parties.



Statistically, Albany is also a suitable transferee venue because, of the four federal Districts in New York, the Northern District has the lowest number of filings per authorized judgeship under all four metrics of unweighted, unweighted civil, weighted, and weighted civil for the twelve months that ended March 31, 2023.⁴ The Northern District has the lowest number of pending cases and pending private cases of the four New York Districts.⁵ The median time interval from

⁴ <https://www.uscourts.gov/statistics/table/x-1a/federal-judicial-caseload-statistics/2023/03/31>

⁵ <https://www.uscourts.gov/statistics/table/c-1/federal-judicial-caseload-statistics/2023/03/31>

filing to disposition of civil cases terminated by the Northern District is 10.1 months, below the national average of 12 months.⁶

Moreover, the Majority Plaintiffs are confident that the Actions would be ably managed by Judge Kahn, an experienced jurist who has successfully shepherded to conclusion complex and class action litigation. *See, e.g., Baker, et al. v. Saint-Gobain Perf. Plastics Corp., et al.*, Civ. No. 1:16-CV-917 (LEK) (N.D.N.Y.) Doc. 316 (February 4, 2022 Order Granting Final Approval of class action settlement of claims alleging PFOA contamination of water); *Dunn et al. v. Ancient Brands*, Civ. No. 5:21-CV-390 (LEK) Doc. 102 (September 15, 2023 Memorandum-Decision and Order granting judgment for defendant on the pleadings in putative class action; case remains pending); *Harper et al. v. Cuomo*, Civ. No. 9:21-CV-0019 (LEK) (putative class action on behalf of prison inmates alleging failure to implement Covid-19 health and safety protocols; Court dismissed action after settlement.). Transfer of these Actions for pretrial coordination by an experienced jurist would be in accord with the purposes of Section 1407 and promote the efficient resolution of the Actions. *See In re Farxiga (Dapagliflozin) Prod. Liab. Litig.*, 273 F. Supp. 3d 1380, 1382 (J.P.M.L. 2017) (transferring cases to district where presiding judge was “an able and experienced jurist who has not had the opportunity to preside over an MDL”).

All of the factors discussed above support centralization in the Northern District of New York. *See, e.g., In re Cobra Tax Shelters Litig.*, 408 F.Supp.2d 1348, 1349 (J.P.M.L. 2005) (“Centralization of litigation in the Southern District of Indiana, with regard to three actions involving abusive tax shelter, was necessary to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve resources of the parties, their counsel, and the judiciary,

⁶ <https://www.uscourts.gov/statistics/table/c-5/federal-judicial-caseload-statistics/2023/03/31>

where actions involved common questions of fact, centralization would serve convenience of the parties and witnesses and promote the just and efficient conduct of the litigation, and Southern District of Indiana had first-filed action, support of a common defendant, and resources that litigation was likely to require.”).

IV. CONCLUSION

All the requirements for transfer under §1407 of the New York tax foreclosure surplus cases are satisfied in this case. Therefore, the Majority Plaintiffs respectfully request that the Panel centralize the New York tax foreclosure surplus actions in the Northern District of New York before the Honorable Lawrence E. Kahn.

Dated: April 9, 2024

/s/ Gregory P. Hansel

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Ann Banse Fay, Barbeau Properties LLC, Christie Miga, WSEJ LLC, Benjamin Osman, Lisa Beutel, Michael Bacon, Alfred Baker, Robert Carl, Melody Chainey, Edith Finley, Sharon D. Fitchette, Jason J. Lacey, Alexander Y. Lock, Jr., Victoria Smith, David Willis, Stephen Blanchard, Sherilyn Blanchard, Kimberly Caneda, Randall Lee Bose, Nancy Bose, Darlene Deary, Melinda D. Colon, Velma D. Colon, Estate of Isabelle D. Bartling by Administrator Karen S. Capparelli, DIJO LP, Fred Bush, Perry Hewett, Frank Iuzzolino, Gloria Cavaluzzi, Lyndon C. Alleyne, Petr Andreenko, Olga Andreenko, Pasquale Coviello, Caterina Coviello, Lisa Demarinis, Harvey Edelglass, Lawrence Eisenberg, Steven Eiseberg, Kenny Emeigh, Roseanne Crumbley, Richard Gorr, Randy Kleingardner, Elizabeth Kleingardner, Tatiana Kozak, Jeremiah Meachum, Thomas Prendergast, Sharon Seekamp, One Hundred Thirty Five Bowery LLC, Madlill Properties Corp, Joel Needleman, Sherrie Needleman, Estate of Everett Tsoucalas by Executor Amber Tsoucalas, Louise Gorr, Richard Chmura, Kenneth Bobar, John W. Tooley, Fred Mowers, David Israel, Doug Yauchler, Clear Lake Land Co., Gordon Gardner, Victor Pressey, Mary Ellen Cossette, Darren Humble, Donna Marano, Michael Dellacontrada, James Coppolla, Ballakis Family Properties LLC, Wanda Dackowsky, John Dackowsky, James Deandrea, Jake Hilts, Cheryl Carvin, Francis Moglia, Karen Lottridge, Donna Gorton, Thomas Platt, Timothy Platt, Helene Blatney, Mark Dickens, David Barry, Raymond Chouinard, Richard Harding, Thomas Eckrote, Kathie Rainero, Darci Hoberg (f/k/a Darci Ladobouche), Shane Schroeder, Nicholas R. Dowd, Estate of Lori Lynn Nemi, Noble Sky Core LLC, Cheryl Bolton, Ronald Feimann, Gary Francis Whitney, Jr., Tonia Lehoisky, Adirondack Mission Initiative Inc., Estate of James R. Smith Jr. by Administrator John J. Smith, John Avenia, Denise Lawrence,

Sweeney as Executor of the Estate of Mary Pedano, Dotty Carr as Voluntary Administrator of the Estate of Carolyn Dell Carr, and Arthur R. McDowell

Dennis Allen, Alice Larock, Vivian Matteson, Matthew Murawski, Nancy Potter, Robert Van Slyke, Cynthia Place, Bryan Fiddler, Mark B. Plate, Joann O. Chamberlain, Michael R. O'Keefe, Kevin H. Smith, Anthony Carusillo, Anne Wallace, Joseph Polizzi, Lisa Todd (f/k/a Lisa Carr), Barbara Goodfellow, Catherine Rosetti, Lonnie Pittsley, Samantha Boyce, Ted Hunt, William Mooney, Tusef Holding LLC, Janet Romanowicz, Cynthia Rich (a/k/a Cynthia Maxam), David Dellamonica, Estate of Ann Alice Hennessy, Administrator Mary Beth Hennessy, Elizabeth Sevinsky, Ryan Brickman, Michelle Tirone Coladangelo, Stephen Tirone, Roger Sitts, Wayne Roberts, Lisa Santore (a/k/a Lisa Lacross), Bryan Rosecrans, Steve Conklin, Paul Smith, Paula Stephens, Lori Cordi (f/k/a Lori Cliburn), Edward Ruland, Patty Lynn Darling-Ruland, Heather Dirienzo, Felice Dirienzo, Jan Dubicki, Linda Botts, Courtney Salmini, John Stark, Victor Majka, Patrick Morris, Ernest Price, James Fletcher, Rebecca Fletcher, Deborah Palmeri, Sandra Tesch, Pamela Gialanella, Frank Gialanella, Aaron Gantz, David Rosado, Kenneth Warren, Barry Felton, Ashley Matias, Neil Matias, Patricia Koban, Terry Yenkevich, Erika Mae Stark, Jeffrey C. Stillman, Daniel Corkery, Protector of Animal Welfare Inc. (d/b/a Project P.A.W.), Darcie Kocan, Estate of Robert R. Kocan, by Executor Darcie Kocan, Michael Vaughn, Kevin Green, Deborah Patterson, EK Equity Inc., Stacy Brenenstuhl, George Brenenstuhl, Keith Roughgarden, Steve Conkin, Randall Vose, William Lander, II, Benjamin Steele, Elizabeth Steele, Gaetano Castellani, Kathleen Rajter, Estate of David Robusto by Executor Kathleen Robusto, WCMGC LLC, Maxim Development Group LLC, Robert White, Stacey Bishop, Franklin German, Bryan Pello, Laura Williamson, William Neilson, Mark Daw, Katrina Daw, Patricia Hughley, Jacqueline Pruden, John Cooke, Liboria Bustamonte, Martin Ward,

Phillip Willis, Jennifer Willis, Christopher Gerow, Estate of David L. Shilberger, by David F. Schilberger as Administrator, Terry Ann Woloszyn, Esther Haines, Peggy Hazard, Richard Hayes, Aimee Rice (a/k/a Aimee Grantham), Seth Grantham, Samuel Cundy, Jr., Mary Altieri, and Estate of Maurice Duffy by Executor Timothy Duffy