

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

In re Diamond Tucker St. Property, LLC Litigation

MDL No. _____

**BRIEF IN SUPPORT OF MOTION TO TRANSFER AND CONSOLIDATE FOR COORDINATED
PRETRIAL PROCEEDINGS PURSUANT TO 28 U.S.C. § 1407**

Plaintiffs, Diamond Tucker St. Property, LLC (“DTS”), Redemption, LLC (“Redemption”), and Westfair LLC (“Westfair”) (and collectively “Plaintiffs”) hereby respectfully submit this Memorandum of Law in support of the Motion to Transfer and Consolidate for Coordinated Related Pretrial Proceedings Pursuant to 28 U.S.C. § 1407.

I. INTRODUCTION

At the time of this filing, nine related actions (“Related Actions”) have been filed in five judicial districts. All claims primordially arise out of a failed residential real estate transaction between Plaintiffs and Karen and Ismet Pupovic (“Defendants Pupovics”). While the original litigation to resolve DTS’ breach of contract claims against the Defendants Pupovics is still pending, but stayed, pre-trial, the entirety of the other eight lawsuits pertain to either: (a) the after-effect of the Defendants Pupovics and their counsel’s litigation abuses in bringing retaliatory actions against Plaintiffs; or (b) Plaintiffs’ efforts at seeking equitable relief from the Defendants Pupovics and their attorney’s litigation abuses.

Transfer and consolidation of the duplicative cases is appropriate under Section 1407 for the reasons set forth herein. As discussed in detail below, Movants respectfully request that the Judicial Panel on Multidistrict Litigation transfer the pending cases to the United States District Court for the Northern District of New York. This District is the most appropriate transferee forum due to its centralized location in a case involving parties from various states in the Northeast, its location as the base of litigation operations of two of the primary Defendants, and its extensive experience managing multidistrict litigation with a much lower backlog of other

multidistrict complex litigation cases, making it well-suited to handle complex pretrial proceedings which have the majority of witnesses and facts located in the New York and lower New England regions.

II. BACKGROUND

A. Allegations in the Related Actions

All pending Related Actions allege that Defendants engaged in Conspiracy to weaponize court systems using abusive, unethical and / or illegal methods and procedures to cause significant financial harm to Plaintiffs.

Defendants consist of two classes at this juncture, with the possibility to add additional ones supplementally:(a) the two individuals identified above as having entered into The Contract with Plaintiffs, Karen and Ismet Pupovic (“The Pupovic Defendants”); and (b) Felicia B. Watson and The Law Offices of Felicia B. Watson, PLLC (“The Watson Defendants”).¹

All Related Actions are in their infancy, are pre-trial, and no party has begun any discovery. One Related Action, a third action in the District of Connecticut, has already been adjudicated on the merits, in Plaintiffs’ favor, and, while referred to herein as having a common source of facts with the pending Related Actions, is not included with the instant Motion.

The number of Related Actions has ballooned as have the number of continued litigation abuses of Defendants. While the initial Related Action complained of an early conspiracy by all Defendants against Plaintiffs, Defendants have continually poured fuel on the fire of the allegations against them by seeking their own frivolous, vexatious, and fraudulent actions driven by further, coordinated acts of conspiracy.

B. Procedural History of the Pending Related Actions

1. Proceedings in the initial Related Action

a) **The Original Breach of Contract and Conspiracy Action**

The Original Breach of Contract and Conspiracy Action was an action brought by DTS in the District of Connecticut in March of 2022 against Defendants alleging breach of contract and various torts stemming from

¹ As detailed *infra*, in some of the Related Actions, the Pupovic Defendants have brought suit against Plaintiffs, and are in those actions the Plaintiffs, but for purposes of this MDL, the Pupovic Defendants will, for simplicity, always be referred to as Defendants.

conspiracy. Two of the Defendants were parties to a real estate purchase and sale contract (“The Contract”), and the other two Defendants acted, purportedly, as legal counsel for DTS for the closing of the Contract. The Defendants answered the Complaint, asserted Affirmative defenses, but asserted no counter claims. Optimistic that the absence of cross complaints signaled a likely quick resolve to the controversy, and in order for DTS to pursue settlement discussions with Defendants, DTS, in April 2022, moved for voluntary dismissal, which was not contested by Defendants, and the action was granted a voluntary dismissal pursuant to Fed. R. Civ. P. 41, *without prejudice*, by the late Hon. Jeffrey Alkin Meyer in May of 2022.

However, in a surprise move, notable at this juncture, but as fully detailed *infra*, rather than settle, two of Defendants led by their counsel who is not named as Defendant, but for whom inclusion in future actions remains a possibility as a result of upcoming discovery, sued DTS and DTS’ legal counsel, the undersigned, in the Connecticut Superior Court in June of 2022 alleging vexatious litigation, abuse of process, and violations of the Connecticut Unfair Trade Practices Act. While this Related Action was removed to the District of Connecticut, where it was dismissed on the merits in favor of DTS and others, and is the only of the Related Actions to be disposed and that is included in this Motion for interdistrict transfer, prior to their loss therein, Defendants spring-boarded this action into further conspiratorial Related Actions against Plaintiffs.

b) The Refiled Original Breach of Contract and Conspiracy Action

DTS reinitiated the identical initial Related Action against the Pupovic Defendants in the Southern District of New York prior to discovery of their base of operations within the Northern District of New York (Ulster County, New York to be specific), and while the refiled initial Related Action’s factual allegations identified the conspiratorial actions and alleged torts of Defendants Watson, Defendants Watson were not yet named as defendants therein as the previous count to which they had been named was moot in the refiled action. As detailed *infra*, Defendants Watson were shortly thereafter separately cited with identically plead allegations to the initial Related Action in a Related Action brought against them in the Southern District of New York, where they maintained an office and place of business. The refiled Original Breach of Contract and Conspiracy Related Action asserted counts of: This action as detailed, *supra*, is at a pre-trial and pre-discovery stage with Defendants having answered DTS’ complaint but the case is under stay and has not proceeded further.

1. The Related Actions

a) **The Three Connecticut Actions of Abusive Litigation Against Plaintiffs**

As detailed *supra*, the Pupovic Defendants brought three Related Actions against Plaintiffs the allegations of which all stem from the initial Related Action. One of these such actions has been resolved in favor of DTS and is currently disposed.

The other two are before the District of Connecticut. The discovery which Plaintiffs expect to be required will be primarily over the records and depositions of the Pupovic Defendants in New York. The Watson Defendants will also form an important part of the discovery in this action and upon information and belief their records are also held at their offices in White Plains, New York. The questions of fact in the three Connecticut Relation Actions remain the same as those in the initial Related Action, did Defendants conspire against Plaintiffs to abuse legal process, and by contrast, The Pupovic Defendants are expected to² claim / continue to claim that it was Plaintiff who acted in abuse of legal process. The Pupovic Defendant's Connecticut Relation Actions asserted counts against Plaintiffs of: []. While Plaintiffs have not yet answered the Pupovic Defendants complaints, if not dismissed, Plaintiffs would be expected to answer and counter claim conspiracy to commit vexatious litigation and fraudulent abuse of process. These actions as detailed, *supra*, are at a pre-trial and pre-discovery stage with Plaintiffs not yet having answered a complaint.

b) **The Two New York Equitable Relief Actions from Abusive Litigation**

As detailed *supra*, the initial Related Action offshoot litigation efforts of all Defendants have caused a contemporality of continuum of facts and questions of law to evolve, all related to Defendants efforts to derail and subvert an orderly and just adjudication of the initial Related Action. Towards these ends the Pupovic Defendants, aided in conspiracy with the Watson Defendants, and upon information and belief other not yet named or identified attorneys and / or parties, have deliberately and furtively sought “defaults” against Plaintiffs³ in the

² Although it is not clear from their extremely vague pleadings.

³ Meanwhile, notably the Pupovic Defendants are currently in default in one of these actions for willful failure to appear. Plaintiffs however have offered to open such default against the Pupovic Defendants in return for their opening of the “defaults” they secured in the Connecticut Related Actions from the state courts when they allegedly knowingly and deceptively swore to service against Plaintiffs using a manner of service not permitted under Connecticut General Statutes and in a manner they believed would not notify Plaintiffs

Connecticut Related Actions discussed *supra*, which while meritless on basis of law, were aimed and directed at Plaintiffs in various jurisdictions for the purposes of financially hindering and vexing them. Plaintiffs were forced to seek equitable relief from these continuing litigation abuses of Defendants, and Plaintiffs seek no damages within these Related Actions, but the same questions of underlying facts present themselves in these equitable actions, namely, did the Defendants conspire with one another to wrongfully injure Plaintiffs including through abuse of the legal system. As of the time of this Motion, one of the New York Equitable Relief Actions asserted counts of prima facie tort and the other, while it is expected to be amended shortly, asserted counts of fraud upon the Court. Both actions sought declaratory and injunctive relief. Neither of the two New York Equitable Relief Actions seek monetary damages. These actions as detailed, *supra*, are at a pre-trial and pre-discovery stage with the Pupovic Defendants not yet having answered Plaintiffs' complaints.

c) The New York Conspiracy Action (Pending Transfer to D. South Carolina)

Shortly after refileing the Original Breach of Contract and Conspiracy Action against the Pupovic Defendants, DTS brought a suit against the Watson Defendants alleging virtually the same set of identical facts pertaining to The Contract and the Watson Defendants alleged role of conspiracy against DTS therein. However, despite a default entering against Defendants pursuant to Fed. R. Civ. P. 55, the Watson Defendants have filed a procedurally impermissible pre-answer, post-default motion to dismiss which Plaintiffs have contended is frivolous and vexatious. Defendants Watson principally challenged their personal jurisdiction within the Southern District of New York and asserted that Defendant Watson had recently moved her domicile to South Carolina and in the event of a denial of the Watson Defendants motion to dismiss, that they requested a transfer of the action out of the Southern District of New York. Plaintiffs objected to the Watson Defendants motion to dismiss on grounds that the Watson Defendants knowingly withheld the fact that they maintained an office and business presence in White Plains, New York and that their motion to dismiss was frivolous and vexatious, but nevertheless, Plaintiffs accepted the Watson Defendants agreement to transfer and requested such transfer to Defendant Watson's newly claimed District of residency, Charleston, South Carolina, where she would be unable to raise

of the pendency of their Related Action. Ostensibly, the Pupovic Defendants have refused such offers to open defaults and litigate on the merits.

further frivolous jurisdictional challenges. This action as detailed, *supra*, is at a pre-trial and pre-discovery stage with Defendants not yet having appeared.

d) The South Carolina Conspiracy Action

Shortly after the Watson Defendants filed a pre-answer, post-default motion to dismiss for personal jurisdiction related to the Southern District of New York Conspiracy Related Action, DTS brought a suit against the Watson Defendants in the District Court within Defendant Watson's newly claimed home state of South Carolina, and informed the Southern District of New York of its intent to have transferred such litigation to the District of South Carolina. The South Carolina Related Action added a single new count of conspiratorial conduct leading to the loss of a contracted sale by the conspiratorial actions of Defendants. This action is also at a pre-trial and pre-discovery stage with Defendants not yet having appeared.

e) The Maryland Equitable Relief Action from Abusive Litigation

In October 2025, Mr. Sean Fillinich brought an action against the Pupovic Defendants in the District of Maryland alleging assorted federal and state violations related to their conspiratorial litigation misconduct stemming from the Initial Related Action. This action is also at a pre-trial and pre-discovery stage with Defendants not yet having appeared.

III. ARGUMENT

A. Transferring, Coordinating and Consolidating of the Pending Related Actions for Pretrial Proceedings is Proper

The principal goals of 28 U.S.C. § 1407 are to avoid duplicative discovery, prevent inconsistent or repetitive rulings, promote efficient management of litigation, and conserve the resources of the parties, counsel, and the courts. *See* MANUAL FOR COMPLEX LITIGATION § 22.33 at 367 (4th ed. 2004). These objectives will all be accomplished by the granting of the instant Motion, which avoids piecemeal litigation. In short, these goals are best served by transferring the Related Actions for coordinated pre-trial proceedings. Under 28 U.S.C. § 1407, this Panel is authorized to transfer and consolidate two or more civil cases for coordinated pretrial proceedings upon the determination that (i) they “involv[e] one or more common questions of fact,” (ii) transfer

will further “the convenience of parties and witnesses,” and (iii) transfer “will promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407(a).

This instant series of Related Actions, particularly where various parties have brought suit in different jurisdictions with designs to impede prior claims or litigation, is the paradigm example of the type of case which is ideally transferred and consolidated into multidistrict litigation as one central case could easily resolve all the common, nearly identical, and completely identical in origin questions of fact and questions of law which otherwise a multitude of different district courts would struggle and be burdened with duplicative questions and decisions.

Here, Section 1407’s requirements for transfer are satisfied. The actions are based on the same or substantially similar questions of law and fact. In addition, transfer will promote the convenience of the parties and efficiency in the pre-trial proceedings by eliminating duplicative discovery and the potential for inconsistent rulings. Because all of the actions assert complex, yet virtually identical claims and allegations requiring substantial discovery into Defendant’s conduct and knowledge, they are well-suited for transfer for coordinated or consolidated pretrial proceedings.

The JPML “routinely . . . centralize[s] actions asserting similar claims under different state statutes where they involve common questions of fact.” *In re BPS Direct, LLC, & Cabela’s LLC, Wiretapping Litig.*, 677 F. Supp. 3d 1363, 1364–65 (J.P.M.L. 2023). Thus, it is “within the very nature of coordinated or consolidated pretrial proceedings in multidistrict litigation for the transferee judge to be called upon to apply the law of more than one state. *In re CVS Caremark Corp. Wage & Hour Emp’t Practices Litig.*, 684 F. Supp. 2d 1377, 1378 (J.P.M.L. 2010) (citation omitted).

Pursuant to 28 U.S.C. § 1407, the transfer of actions to a single jurisdiction for coordinated or consolidated pretrial proceedings is proper when the civil actions pending in various districts involve one or more common questions of fact, and transfer and consolidation “will be for the convenience of the parties and witnesses and will promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407(a). These statutory requirements are met in this case.

While the three of the nine cases were filed in the Southern District of New York, some defendants have raised objections to personal jurisdiction in that district, and that district is among the most understaffed and overburdened in the country. It is in the interest of all parties involved that the cases be consolidated before a court that has the capacity, experience, and resources to handle this complex litigation efficiently and in a manner that will “secure the just, speedy, and inexpensive determination” of these related actions. Fed. R. Civ. P. 1.

There are now eight pending Related Actions in five districts. Each of the Related Actions arises out of the same conduct. The Related Actions all allege that this conspiracy has maliciously caused harm to Plaintiffs.

1. All of the Related Actions Involve Common Questions of Fact.

Transfer under Section 1407 “does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to transfer.” *In re Rembrandt Techs., LP, Patent Litig.*, 493 F. Supp. 2d 1367, 1370 (J.P.M.L. 2007). For purposes of Section 1407, common factual questions exist where multiple actions “arise from the same factual milieu” and can be expected to involve a significant number of common events, defendants, and/or witnesses. *In re ClassicStar Mare Lease Litig.*, 528 F. Supp. 2d 1345, 1346 (J.M.P.L. 2007).

Here, this requirement is easily satisfied because all of these cases arise out of and seek to hold one of either the Plaintiffs or Defendants responsible for an original breach of contract, and allegations of litigation abuse stemming from an action for such breach of contract. The central allegation in every case is that the Defendants conspired to and did initiate a scheme whereby two of the first Defendants would employ abuse and dishonest litigation tactics to effectively disrobe Plaintiffs of their right to have adjudicated the original action on its merits. Consequently, the additional actions accused – both Plaintiffs and Defendants – of committing wrongful acts in the prosecution of the original breach of contract action.

The first requirement of Section 1407—that actions involve common questions of fact—is satisfied. The factual issues to be determined in each of the actions proposed for transfer and coordination arise from the same course of conduct by Defendants and are identical for pretrial purposes. Common questions of fact at issue in the related actions include, but are not limited to:

- a) Whether Defendants originally conspired with one another against Plaintiffs in the original contract transaction;

- b) Whether Defendants jointly, and in conspiracy, breached the original contract with Plaintiffs;
- c) Whether Defendants originally conspired with one another to tortiously interfere with Plaintiffs' prospective economic advantage;
- d) Whether Defendants originally conspired with one another to identify means and mechanisms within the legal system to assist in injuring Plaintiffs;
- e) Whether Defendants continued to conspire with one another against Plaintiffs in the course of the later filed Related Actions;
- f) Whether Defendants continued and carried on their litigation abuses into the later Related Actions;

A review of the pleadings in the Related Actions reveals that the factual issues to be determined in each of the actions are nearly identical, making transfer to a single forum highly appropriate. As the Panel has noted in other matters, “[t]hat the actions involve differing legal claims is ‘not significant when, as here, the actions arise from a common factual core.’” *In re Dividend Solar Fin., LLC, & Fifth Third Bank Sales & Lending Practices Litig.*, 753 F. Supp. 3d 1365, 1367 (J.P.M.L. 2024) (quoting *In re Air Crash Over the S. Indian Ocean*, on Mar. 8, 2014, 190 F. Supp. 3d 1358, 1359 (J.P.M.L. 2016)).

This action also shares elements of complex data breach litigation, when the Defendants conspired with one another against Plaintiffs to release Plaintiffs' unencrypted confidential and privileged information for their litigation benefit.

This Panel frequently finds consolidation warranted where, as here, multiple pending cases arise out of a single data breach incident. *See, e.g., In re Sprouts Farmers Mkt., Inc.*, 232 F. Supp. 3d 1348, 1348 (J.P.M.L. 2016) (transferring four actions for consolidated pretrial proceedings where cases “share factual issues concerning an incident in which the 2015 W-2 forms of Sprouts employees were released, unencrypted, to an unknown party as the result of a phishing scam”); *In re Sci. Applications Int’l Corp. (SAIC) Backup Tape Data Theft Litig.*, 870 F. Supp. 2d 1380, 1381 (J.P.M.L. 2012) (finding transfer appropriate where the “actions all arise out of the September 2011 theft of computer tapes containing personally identifiable and protected health information”); *In re RBS Worldpay, Inc., Customer Data Sec. Breach Litig.*, 626 F. Supp. 2d 1322, 1322 (J.P.M.L.2009) (granting motion to consolidate two actions pending in two judicial districts where “[b]oth actions involve allegations

stemming from an unauthorized intrusion into RBSW’s computer system”). The benefits of consolidation are clear when discovery in each of the cases will center on the same facts – the cause, circumstances and motivations of the confidential and privilege data breach, and the defendant’s data security and protection practices.

2. Consolidating the actions will further the convenience of the parties and the witnesses.

Consolidation of the related actions would satisfy the second requirement of Section 1407 because it would serve the convenience of the parties and witnesses. As the Supreme Court has stated, “[t]ransfer under § 1407 aims to ‘eliminate duplication in discovery, avoid conflicting rulings and schedules, reduce litigation cost, and save the time and effort of the parties, the attorneys, the witnesses, and the courts.’” *Gelboim v. Bank of Am. Corp.*, 574 U.S. 405, 410 (2015) (quoting MANUAL FOR COMPLEX LITIGATION § 20.131, p. 220 (4th ed. 2004)).

Because the alleged litigation torts related to the original breach of contract action allegedly committed by all Defendants were ongoing, and successive, and gave rise to Plaintiffs’ independent sources of action and equitable relief, the documents and witnesses relevant to claims arising out of the multiple and successive claims of litigation abuses will primarily be the same.

If the litigation is not consolidated, The Defendants will be subject to duplicative discovery demands and Plaintiffs will be forced to litigate, and Defendants will be forced to defend, the same issues before several courts, driving up litigation costs, putting them at risk of inconsistent rulings, and an unnecessary dissipation of Judicial resources.

Consolidation is also warranted because it will create convenience for the parties and witnesses and will conserve judicial resources. Consolidation is appropriate where it “will eliminate duplicative discovery” and “conserve the resources of the parties, their counsel, and the judiciary.” *In re Commodity Exchange, Inc., Gold Futures & Options Trading Litig.*, 38 F. Supp. 3d 1394, 1395 (J.P.M.L. 2014); see also, Manual for Complex Litigation, Fourth § 20.131 (2004) (Requests for Transfer) (“The objective of transfer [through the MDL process] is to eliminate duplication in discovery, avoid conflicting rulings and schedules, reduce litigation cost, and save the time and effort of the parties, the attorneys, the witnesses, and the courts.”).

Because the Related Actions’ factual allegations and legal claims largely overlap, transfer would serve “the convenience of parties and witnesses and . . . promote the just and efficient conduct” of the Related Actions. 28 U.S.C. § 1407(a). Judicial efficiency supports consolidation of the nine Related Actions.

See, e.g., *In re Broiler Chicken Grower Antitrust Litig.*, 509 F. Supp. 3d 1359, 1360 (J.P.M.L. 2020) (consolidating five pending actions under § 1407); *In re Wells Fargo Wage & Hour Emp. Practices Litig.* (No. III), 804 F. Supp. 2d 1382, 1384-85 (J.M.P.L. 2011) (consolidating four pending actions).

The Plaintiffs in the Related Actions will pursue substantially identical testimony, documents, and other evidence from Defendants. Centralizing the Related Actions will “eliminate the potential for duplicative discovery and pretrial motion practice, as well as inconsistent pretrial rulings and scheduling.” *In re OpenAI, Inc., Copyright Infringement Litig.*, 776 F. Supp. 3d 1352, 1355 (J.P.M.L. 2025). Because the Related Actions have common factual and legal questions, they will have many overlapping pretrial issues, including (among many others) the legal sufficiency of the claims and allegations, the factual sufficiency of proof gathered during discovery, and the admissibility of expert testimony. See *In re Multiplan*, 743 F. Supp. at 1377 (finding that centralization would “prevent inconsistent pretrial rulings”); *In re Baby Food Mktg., Sales Practices & Prods. Liab. Litig.* (No. II), 730 F. Supp. 3d 1371, 1373 (J.P.M.L. 2024) (holding that centralization will eliminate the potential for inconsistent pretrial rulings, “particularly with respect to expert admissibility and other dispositive issues”); *In re Glucagon-Like Peptide-1 Receptor Agonists Prods. Liab. Litig.*, 717 F. Supp. 3d 1370, 1373 (J.P.M.L. 2024) (centralizing cases that “may entail overlapping expert witnesses”). The Panel should thus centralize the Related Actions to promote efficient litigation and prevent conflicting rulings on the same legal and factual issues.

3. Transfer and consolidation will promote just and efficient conduct of the Related Actions.

Consolidation of these cases “will promote [their] just and efficient conduct.” 28 U.S.C. §1407. As referenced above, the Related Actions assert similar theories of liability. They each assert claims for negligence / conspiracy, breach of contract and seek equitable relief from abuse of legal process and / or fraud upon the Court.

Consolidation is particularly appropriate here because each of the cases is in its infancy. As such, none of the cases to be transferred has progressed significantly, as Plaintiffs have not yet propounded discovery, and there

has been no significant motion practice. This ensures that the transferee court's efforts will not duplicate the work of any transferor court or result in inconsistent rulings on substantive matters.

B. The Northern District of New York Is the Most Appropriate Venue for the Transfer of These Actions

In deciding the appropriate transferee court, the Panel has often considered: (i) where the majority of cases are pending; (ii) where a defendant's headquarters are located; (iii) where relevant documents and witnesses are located; (iv) whether the transferee district is easily accessible to parties and witnesses; and (v) whether the transferee court has the capacity to devote sufficient resources to complex consolidated proceedings. As discussed below, these factors strongly support consolidating pretrial proceedings in the Northern District of New York.

Under those standards, one district stands out: The Northern District of New York. That District's dominance over the above factors is clear -- even though superficially one of the factors does not appear to weigh heavily in its favor, it does however weigh more heavily upon closer examination, and furthermore, such factor favors no other district significantly more.

Factors demonstrating clear dominance for the Northern District of New York include, crucially, the docket availability of a transferee court within the Northern District for New York being considerably less congested than other neighboring districts but with the same knowledge expertise and capability of a handling any MDLs, the Pupovic Defendant's claimed address located in Pine Bush, New York, being situated in the Northern District of New York, and, thus, where they, as witnesses, would testify, and where their documents are located, as well as the geographic centrality of the Northern District of New York with Albany, New York being in close proximity to any witnesses' residences. Furthermore, upon information and belief, the common facts arise within the Northern District of New York as this is the geographic district which the Pupovic Defendants routinely claimed, over the course of years, to be their home and base of litigation operations.

One Related district court Action is currently pending before it -- although for purposes of that analysis, there could be considered two related actions pending there as the only state court action pending in this entire controversy is currently pending in the Supreme Court of the State of New York, County of Ulster, which is geographically located within the Northern District of New York.

As for the majority of cases factor, there is no clear winner, as outlined above, the Southern District of New York is expected upon transfer to have only three cases pending (with one of such remaining three currently under Motion to Dismiss, and another facing an imminent motion to dismiss) and two of the three of which are currently under stay, while four of the other nine pending Related Actions are / are expected to be after transfer in two different districts, and two districts have one each. Additionally, the current pending and expected forthcoming motions to dismiss of Defendants continue to weigh in favor of transfer and consolidation, because, if successful, such Districts could dismiss or transfer their cases to where the Pupovic Defendants have their base of litigation operations and personal jurisdiction, namely, the Northern District of New York.

Furthermore, as to the considerable factor of court capacity and docket overload, the United States District Court for the Southern District of New York is one of the most understaffed federal districts in the country, and such factors create a high risk of delays and inefficiencies, especially in complex litigation.

In stark contrast, the Northern District of New York is not unduly overburdened with a caseload as are other districts, and is geographically central, making it a more convenient and accessible forum for parties and witnesses from across the Atlantic seaboard. This is especially significant in a case involving Plaintiffs and Defendants from either side of New York, as here, as the burden of travel and costs would be equitably distributed. While, as demonstrated during the COVID-19 pandemic, the physical location of witnesses is not necessarily a determinative factor as depositions and other case events can be handled remotely, nonetheless, where in person appearances would be necessary for the various parties and witnesses, the Northern District of New York is the most centrally located jurisdiction to all parties, and particularly with respect to the two of the Defendants, who are the primary witnesses in this case and who have based their litigation activities there.

In sum, the Northern District of New York's central location, judicial capacity, and experience with similar MDL cases make it the most suitable forum for consolidating and managing these cases

IV. CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that the Panel order these related actions, and any others that may be subsequently filed, consolidated and transferred under Section 1407 to the United States District Court for the Northern District of New York.

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