

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

Aug 11, 2009

**FILED
CLERK'S OFFICE**

**IN RE: OPTIMAL STRATEGIC U.S. EQUITY FUND
SECURITIES LITIGATION**

MDL No. 2073

TRANSFER ORDER

Before the entire Panel: Defendants Banco Santander International and Banco Santander, S.A., have moved, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of this litigation in the Southern District of Florida. Plaintiffs in the Southern District of Florida actions and defendants HSBC Securities Services (Ireland) Ltd. and HSBC Institutional Trust Services (Ireland) Ltd. support or do not oppose the motion. Plaintiffs in the Southern District of New York action oppose centralization in the Southern District of Florida and, alternatively, suggest centralization in the Southern District of New York.

This litigation currently consists of three actions listed on Schedule A and pending in two districts, two actions in the Southern District of Florida and one action in the Southern District of New York.

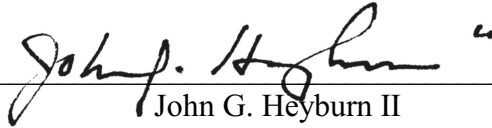
On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact, and that centralization under Section 1407 in the Southern District of Florida will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share factual questions relating to allegations that defendants failed to perform adequate due diligence before investing money from their fund, Optimal Multiadvisors, Ltd., and some of its sub-funds with Bernard L. Madoff's investment firm, Bernard L. Madoff Investment Securities LLC (BLMIS). To address the nature of the due diligence that defendants conducted prior to investing fund assets in BLMIS, all actions will likely focus on a significant number of common events, defendants, and/or witnesses. *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). Centralization under Section 1407 will eliminate duplicative discovery; avoid inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary.

We are persuaded that the Southern District of Florida is an appropriate transferee district. Common defendant Banco Santander International is headquartered in that district and two actions are already pending there, including the first-filed action.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the action listed on Schedule A and pending outside the Southern District of Florida is transferred to the Southern District of Florida and, with the consent of that court, assigned to the Honorable Paul C. Huck for

coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



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W. Royal Furgeson, Jr.

**IN RE: OPTIMAL STRATEGIC U.S. EQUITY FUND
SECURITIES LITIGATION**

MDL No. 2073

SCHEDULE A

Southern District of Florida

In Re Banco Santander Securities-Optimal Litigation, C.A. No. 1:09-20215
Antonio Atencia Puado v. Banco Santander S.A., et al., C.A. No. 1:09-20934

Southern District of New York

Welinton David Santos, et al. v. Banco Santander S.A., et al., C.A. No. 1:09-2838