



UNITED STATES
JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

Aug 11, 2009

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**FILED
CLERK'S OFFICE**

**IN RE: PARK WEST GALLERIES, INC., MARKETING
AND SALES PRACTICES LITIGATION**

MDL No. 2076

TRANSFER ORDER

Before the entire Panel: Defendants Park West Galleries, Inc., Fine Art Sales, Inc., PWG Florida, Inc., Vista Fine Art, LLC, and Albert Scaglione have moved, pursuant to 28 U.S.C. § 1407, to centralize this litigation in the Eastern District of Michigan. This litigation currently consists of one action pending in that district (*Bohm*) and two actions pending in the Southern District of Florida (*Bouverat*) and Western District of Washington (*Blackman*), respectively, as listed on Schedule A.¹

Defendants Holland America Line Inc. and Holland America Line-USA Inc., which are the only cruise line defendants and are sued only in *Blackman*, submitted a statement of non-opposition to the Section 1407 motion. Plaintiffs in the *Bohm* and *Blackman* actions, however, oppose the motion. If the Panel orders centralization over their objections, plaintiffs in *Blackman* ask that the Panel centralize the litigation in the Western District of Washington, whereas plaintiffs in *Bohm* favor selection of their district as transferee district.

On the basis of the papers filed and the hearing session held, we find that these three actions involve common questions of fact, and that centralization under Section 1407 in the Western District of Washington will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions share allegations that defendants operated a fraudulent scheme to sell fake, worthless, or low-value artwork at shipboard auctions or in private sales through the use of phony appraisals and/or other sales-related documentation. Centralization under Section 1407 will eliminate duplicative discovery, prevent inconsistent pretrial rulings (including with respect to class certification and the extraterritorial reach, if any, of RICO and state consumer protection statutes), and conserve the resources of the parties, their counsel and the judiciary.

We conclude that the Western District of Washington is an appropriate transferee district for pretrial proceedings in this docket. The *Blackman* action is measurably more advanced than the action pending in the Eastern District of Michigan, the forum favored by moving defendants. In

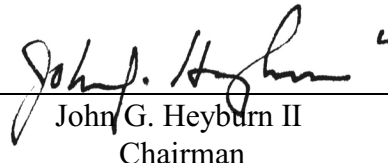
¹ The Panel has been notified of three additional related actions. Those actions and any other related actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

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addition, Chief Judge Robert S. Lasnik, who is already presiding over *Blackman*, has the time and experience to steer these actions on a prudent course.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Western District of Washington are transferred to the Western District of Washington and, with the consent of that court, assigned to the Honorable Robert S. Lasnik for coordinated or consolidated pretrial proceedings with the action pending in that district and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



John G. Heyburn II
Chairman

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

Kathryn H. Vratil
W. Royal Furgeson, Jr.

**IN RE: PARK WEST GALLERIES, INC., MARKETING
AND SALES PRACTICES LITIGATION**

MDL No. 2076

SCHEDULE A

Southern District of Florida

David Bouverat v. Park West Gallery, Inc., C.A. No. 1:08-21331

Eastern District of Michigan

Joseph Bohm, et al. v. Park West Gallery, Inc., et al., C.A. No. 2:09-11392

Western District of Washington

Rodney J. Blackman, et al. v. Park West Galleries, Inc., et al., C.A. No. 2:08-1310

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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United States District Court
Western District of Kentucky

MEMBERS:
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United States District Court
Northern District of Indiana

Kathryn H. Vratil
United States District Court
District of Kansas

David R. Hansen
United States Court of Appeals
Eighth Circuit

W. Royal Furgeson, Jr.
United States District Court
Northern District of Texas

Frank C. Damrell, Jr.
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Eastern District of California

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August 11, 2009

Bruce Rifkin, Clerk
U.S. Courthouse, Lobby Level
700 Stewart Street
Seattle, WA 98101

Re: MDL No. 2076 -- IN RE: Park West Galleries, Inc., Marketing and Sales Practices Litigation

Dear Mr. Rifkin:

Attached as a separate document is a certified copy of a transfer order that the Judicial Panel on Multidistrict Litigation issued today in the above-captioned matter. The order is directed to you for filing. Rule 1.5 of the [Rules of Procedure of the Judicial Panel on Multidistrict Litigation](#), 199 F.R.D. 425, 428 (2001), states "A transfer or remand pursuant to 28 U.S. C. § 1407 shall be effective when the transfer or remand order is filed in the office of the clerk of the district court of the transferee district."

Today we are also serving an information copy of the order on the transferor court(s). The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred [transferor court]."

Rule 1.6(a), pertaining to transfer of files, states "the clerk of the transferor district court shall forward to the clerk of the transferee district court the complete original file and a certified copy of the docket sheet for each transferred action." **With the advent of electronic filing, many transferee courts have found that it is not necessary to request the original file. Some transferee courts will send their certified copy of the Panel order with notification of the newly assigned transferee court case number and inform the transferor courts that they will copy the docket sheet via PACER. Others may request a certified copy of the docket sheet and a copy of the complaint (especially if it was removed from state court). You should be specific as to the files you would like to receive from the transferor courts and if no files will be necessary, you should make that clear. Therefore, Rule 1.6(a) will be satisfied once a transferor court has complied with your request.**

You may find Chapter 7 of Volume 4 of the [Clerks Manual, United States District Courts](#) helpful in managing the MDL docket.


The Panel Clerk's Office maintains the only statistical accounting of multidistrict litigation traffic in the federal courts. Therefore, we would appreciate your cooperation in keeping the Panel advised of the progress of this litigation. We are particularly interested in receiving the docket numbers assigned to each transferred action by your court; the caption and docket numbers of all actions originally filed in your district; and copies of orders regarding appointment of liaison counsel, settlements, dismissals, state court remands, and reassignments to other judges in your district.

Your attention is also directed to Panel Rule 7.6, regarding termination and remand of transferred actions. Upon notification from your court of a finding by the transferee judge suggesting to the Panel that Section 1407 remand of a transferred action is appropriate, this office will promptly file a conditional remand order.

Attached to this letter, for your information, is a copy of the Panel Service List and a listing of the transferor court clerks with respect to this order.

Very truly,

Jeffery N. Lüthi
Clerk of the Panel

By 
Jakeia Mells
Deputy Clerk

Attachments (Transfer Order is a Separate Document)

cc: Transferee/Chief Judge: Judge Robert S. Lasnik

**Judicial Panel on Multidistrict Litigation - Panel Service List
for
MDL 2076 - IN RE: Park West Galleries, Inc., Marketing and Sales Practices Litigation**

***** Report Key and Title Page *****

Please Note: This report is in alphabetical order by the last name of the attorney. A party may not be represented by more than one attorney. See Panel rule 5.2(c).

Party Representation Key

- * Signifies that an appearance was made on behalf of the party by the representing attorney.
 - # Specified party was dismissed in some, but not all, of the actions in which it was named as a party.
- All counsel and parties no longer active in this litigation have been suppressed.

This Report is Based on the Following Data Filters

Docket: 2076 - Park West Galleries, Inc., Marketing & SP
For Open Cases

Docket: 2076 - IN RE: Park West Galleries, Inc., Marketing and Sales Practices Litigation

Status: Transferred on 08/11/2009

Transferee District: WAW Judge: Lasnik, Robert S.

Printed on 08/11/2009

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**IN RE: PARK WEST GALLERIES, INC., MARKETING
AND SALES PRACTICES LITIGATION**

MDL No. 2076

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FLSD MDL/FLSD/11/USCOURTS