

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

In re: COUNTRYWIDE FINANCIAL
MORTGAGE LENDING PRACTICES
LITIGATION

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) *Electronically Filed*
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_____,
This document relates to
ALL ACTIONS

)
) Chief Judge John G. Heyburn II
)
) MASTER FILE NO. 08-md-1974
) MDL No. 1974
)
)

PRACTICE & PROCEDURE ORDER

In order to promote the just, expeditious and cost-effective resolution of this litigation, IT IS HEREBY ORDERED as follows:

I. PRACTICE AND PROCEDURE ORDER UPON TRANSFER PURSUANT TO §1407(a)

This order shall govern the practice and procedure in those actions transferred to this Court by the Judicial Panel on Multidistrict Litigation (MDL Panel) pursuant to its order of August 7, 2008, as well as all related actions originally filed in this Court or transferred or removed to this Court. This order shall also govern the practice and procedure in any tag-along actions transferred to this Court by the MDL Panel pursuant to Rule 7.4 of the Rules of Procedure of the MDL Panel subsequent to the filing of the final transfer order by the Clerk of this Court and any related actions subsequently filed, transferred or removed to this Court.

II. RULE 42 CONSOLIDATION, MASTER FILE AND MASTER DOCKET

A. Pursuant to Federal Rule of Civil Procedure 42(a), the Clerk of Court shall consolidate the action *Garcia v. Countrywide Financial Corp., et al.*, 07-CV-01161VAP(JCRx) (C.D. Cal.), with *Miller v. Countrywide Financial Corp., et al.*, 07-CV-11275-RGS (D.Mass.), and *Jenkins v. Countrywide Financial Corp., et al.*, 08-CV-02935 (N.D. Ill.), for pretrial proceedings (the “Consolidated Actions”).

B. The files of all Consolidated Actions shall be maintained in the Master File, Case No. 08-md-1974. Every pleading filed in the Consolidated Actions shall bear the above caption. When a pleading or paper is intended to be applicable to all actions, the words “All Actions” shall appear immediately after the words “This Document Relates To:” in the caption above. When a pleading or paper is intended to be applicable only to certain actions, the caption should indicate the applicable action(s).

C. All pleadings and submissions in these actions shall be e-filed in both the master docket and in the individual case docket(s) of any individual case(s) to which the submission pertains. All submissions filed in these actions shall bear the identification “Case No. 08-md-1974 MDL 1974,” and when such submission relates to all these actions, following “Case No. 08-md-1974 MDL 1974,” shall be the notation “ALL CASES.” If a submission does not relate to all of these actions, the docket number of the individual action(s) assigned by the Clerk of the Court shall follow “Case No. 08-md-1974 MDL 1974.” The chambers copy of each document e-filed in these cases must clearly indicate the docket number assigned by the electronic case filing system to each such document.

III. APPEARANCES

A. Counsel who have not yet entered an appearance shall electronically file a Notice of Appearance in the Master Docket and in the individual case docket(s) of any individual case(s). Counsel who appeared in a transferor court prior to their case being transferred to this Court need not enter an additional appearance before this Court.

B. All attorneys of record to the parties in this action are deemed admitted pro hac vice to practice before this Court, and no pro hac vice applications for admission to practice by counsel of record are required. Pursuant to Rule 1.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, association of local counsel is not required.

IV. FILING AND SERVICE OF PAPERS AND PLEADINGS

A. These cases are subject to Electronic Case Filing (“ECF”), pursuant to Joint General Order 05-03, which requires that all documents in such a case be filed electronically. All attorneys of record shall register to become an ECF User. Forms and instructions can be found on the Court’s website at <https://kywd.uscourts.gov/CMECFWelcome.php>. All documents can be e-filed in the Master File, Case No. 08-md-1974 MDL 1974.

B. Papers that are filed electronically through the Court’s ECF system are deemed served on all parties as of the date of filing. Service of all other papers shall be made by hand delivery, facsimile, overnight delivery or by United States mail to counsel

for Defendants and to Co-Lead and Liaison Interim Class Counsel, as well as by e-mail to the designated e-mail distribution lists submitted by each party, as updated.

C. All parties are to make best efforts to resolve scheduling and other procedural issues by conferring with opposing counsel in the case(s) before contacting the Court.

V. **APPOINTMENT AND ORGANIZATION OF PLAINTIFFS' CO-LEAD INTERIM AND LIAISON INTERIM CLASS COUNSEL**

A. Until such time as the Court rules on a motion for class certification, and appoints class counsel under Fed. R. Civ. P. 23(g), if any, the following counsel are designated to act on an interim basis on behalf of Plaintiffs and the Class in this action and all subsequent related and consolidated actions unless otherwise ordered by the Court (“Co-Lead Interim Class Counsel and Liaison Interim Class Counsel”):

1. BONNETT FAIRBOURN FRIEDMAN & BALINT, P.C.
Andrew S. Friedman
2901 North Central Avenue, Suite 1000
Phoenix, AZ 85012
Telephone: 602-274-1100

2. RODDY KLEIN & RYAN
Gary Klein
727 Atlantic Avenue
Boston, MA 02111-2810
Telephone: 617-357-5500, ext. 15

Co-Lead Interim Class Counsel

3. PARRY DEERING FUTSCHER & SPARKS, P.S.C..
Ron R. Parry (#53750)
411 Garrard Street
P. O. Box 2618
Covington, KY 41012-2618
Telephone: 859-291-9000

Liaison Interim Class Counsel

B. Co-Lead Interim Class Counsel are directed to mail a copy of this Order to all counsel of record in this action.

C. Co-Lead Interim Class Counsel are expected to maintain communications and promote harmonious dealings among all Plaintiffs' counsel. Co-Lead Interim Class Counsel shall provide general supervision of the activities of Plaintiffs' counsel and shall have the following responsibilities and duties to perform or delegate as appropriate:

1. to brief and argue motions;
2. to initiate and conduct discovery, including, without limitation, coordination of discovery with Defendants' counsel, and the preparation of written interrogatories, requests for admissions and requests for production of documents;
3. to direct and coordinate the examination of witnesses in depositions;
4. to act as spokesperson at pretrial conferences;
5. to call and chair meetings of Plaintiff's counsel as appropriate or necessary from time to time;
6. to initiate and conduct any settlement negotiations with counsel for Defendants;

7. to provide general coordination of the activities of Plaintiffs' counsel and to delegate work responsibilities to selected counsel as may be required in such a manner as to lead to the orderly and efficient prosecution of this litigation and to avoid duplication or unproductive effort;

8. to consult with and employ experts;

9. to receive and review periodic time reports of all attorneys on behalf of Plaintiffs and to determine if the time is being spent appropriately and for the benefit of Plaintiffs; and

10. to perform such other duties as may be expressly authorized by further order of this Court.

D. Defendants' counsel may rely upon all agreements made with any of Plaintiffs' Co-Lead or Liaison Interim Class Counsel and such agreements shall be binding on Plaintiffs and Plaintiffs' counsel in this action and any subsequent related and consolidated actions.

VI. LATER FILED CASES IN THIS COURT

A. When a case that relates to the same racial discrimination claims under the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, and/or the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, as these actions is hereafter filed in this Court or transferred from another court, the Clerk of this Court shall:

1. File a copy of this Order in the separate file for such action.

2. Mail a copy of the Order of assignment to counsel for plaintiffs and counsel for each defendant in any actions consolidated herewith.

3. Make an appropriate entry in the Master Docket.

4. Mail to the attorneys for the plaintiff(s) in the newly filed or transferred case a copy of this Order.

5. Upon the first appearance of any new defendant(s) mail to the attorneys for the defendant(s) in such newly filed or transferred case a copy of this Order.

B. Counsel for Plaintiffs and Defendants in this action shall cooperate in calling to the attention of the Clerk any newly filed or transferred case.

VII. APPLICATION OF THIS ORDER TO SUBSEQUENT RELATED ACTIONS

Because subsequent related cases alleging racial discrimination claims under the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, and/or the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, may be filed in or transferred to this Court, this Court will issue orders to the extent practicable calling for such matters to be consolidated with this action pursuant to Federal Rule of Civil Procedure 42 and to otherwise proceed in a manner consistent with the schedule in this action.

All future Plaintiffs' counsel in subsequent related and consolidated cases must be authorized in advance by Co-Lead Interim Class Counsel to assume responsibilities related to those of the law firm designated above as Co-Lead Interim Class Counsel.

VIII. COMMUNICATIONS WITH THE COURT AND COUNSEL

A. Unless otherwise ordered by the Court, all substantive communications with the Court shall be e-filed.

B. Counsel for all parties are directed to cooperate with one another, whenever possible, to promote the expeditious handling of pretrial proceedings in this action. The communication of information among and between Plaintiffs' counsel and among and between Defendants' counsel shall not be deemed a waiver of the attorney-client privilege or the protection afforded attorney work-product. Nothing contained in this provision shall be construed to limit the rights of any party or counsel to assert the attorney-client privilege or attorney work-product doctrine.

IX. MISCELLANEOUS

A. All subsequent pretrial orders issued in this action shall be numbered consecutively. Any reference to an Order of this Court in any document filed with the Court shall include the proper number of the Order.

B. This Order may be amended by the Court on its own motion, and any party may apply at any time to this Court for a modification or exception to this Order.

C. All Plaintiffs' counsel in this action and counsel of any subsequent related and consolidated actions shall submit a record of the time expended on these matters on a monthly basis in a manner prescribed by Co-Lead Interim Class Counsel.

IT IS SO ORDERED.

DATED: _____

Honorable John G. Heyburn II
United States District Court Judge