

LAW OFFICES OF JOHN K. DEMA, P.C.  
ATTORNEYS-AT-LAW

JOHN K. DEMA  
[REDACTED]

ADMITTED USVI-CA

8 January 2010

*Via Certified mail – Return Receipt and E-mail*

Darren K. Indyke, Esquire  
President, Financial Trust Company, Inc.

6100 Red Hook Quarter, Suite B-3  
St. Thomas, U.S. Virgin Islands 00802

301 East 66<sup>th</sup> Street  
New York, New York 10065

**RE: Financial Trust Company, Inc. v. The Bear Stearns Companies Inc.**

Dear Attorney Indyke:

This is further to my letter dated December 21, 2009, wherein I advised you that it was likely that the above titled action would be ordered to be consolidated with the MDL Bear Stearns Litigation pending in the Southern District of New York, and that FTC should immediately retain stateside counsel to represent FTC in the MDL proceedings.

On January 7, 2010, the case of Financial Trust Company, Inc. v. The Bear Stearns Companies, Inc., 09-cv-00106 (“Financial Trust”), filed in the federal District Court of the Virgin Islands, Division of St. Thomas and St. John, was conditionally transferred to the MDL Litigation by the United States Judicial Panel on Multidistrict Litigation: In re: The Bear Stearns Companies Inc. Securities, Derivative and Employee Retirement Income Security Act (ERISA) Litigation, MDL No. 1963, in the Southern District of New York. The Financial Trust case has been assigned No. 3:09-106, and is before the Honorable Robert S. Sweet.

We are enclosing, for your review and immediate action, the following documents we received from the U.S. Judicial Panel on Multidistrict Litigation on January 7, 2010 with respect to the procedures to be followed as a result of the conditional transfer of Financial Trust to the MDL in New York:

1. Conditional Transfer Order (CTO-3), dated January 7, 2010, transferring the Financial Trust case to the MDL in the Southern District because it “appears that

2. the action on this conditional transfer order involves questions of fact that are common to the actions previously transferred to the Southern District of New York and assigned to Judge Sweet”.
3. Notice of Filing of Conditional Transfer Order (CTO-3), noticing the filing of the conditional transfer of Financial Trust to the MDL and that the order will be stayed for 14 days unless opposed in accordance with Rule 7.4(c).

**IF FTC WISHES TO OPPOSE TRANSFER, A NOTICE OF OPPOSITION AND AN APPEARANCE OF COUNSEL MUST BE FILED ON OR BEFORE JANUARY 21, 2010 (12 NOON EST).**

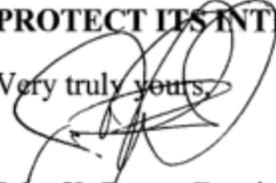
**WE NOTE THAT EVEN IF FTC DECIDES NOT TO OPPOSE THE TRANSFER, THE FORM OF APPEARANCE BY COUNSEL FOR FTC MUST STILL BE FILED ON OR BEFORE JANUARY 21, 2010 (12 NOON EST).**

4. Notice of Appearance form by counsel for MDL No. 1963 – This form **MUST** be returned to the Judicial Panel no later than January 21, 2010 (12 Noon Eastern Time). Only one attorney can be designated to represent FTC. This Notice of Appearance must be filed by an attorney representing FTC regardless of whether a Notice of Opposition is filed, to authorize the attorney to receive service of all pleadings, notices, orders and other papers relating to practice before the MDL on behalf of FTC.
5. Notice to Counsel of Electronic Public Access to Panel Docket Sheets and Records and Limited Waiver of Electronic Public Access Fees.
6. General Order Amending Filing Deadlines – provides the new deadline dates in the Rules of Procedures of the U.S. Judicial Panel on Multidistrict Litigation.

We previously advised in our December 21, 2009 letter that “FTC should retain counsel with offices in New York with respect to the multidistrict litigation pending in the Southern District” and that our firm was not retained by FTC to represent it in the MDL litigation in New York and would not represent FTC in the New York forum. Although I have sent you numerous emails and made several phone calls to you following the December 21, 2009 letter, you have failed to reply other than to ask my availability for a meeting on January 7, 2010 in St. Thomas – I replied in the affirmative and did not hear back from you.

**IT IS IMPERATIVE THAT FTC TAKE ACTION AT THIS JUNCTURE TO PROTECT ITS INTERESTS BEFORE THE MDL PANEL.**

Very truly yours,

  
John K. Dema, Esquire

JKD/lt  
Enclosures

Jan 07, 2010

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

FILED  
CLERK'S OFFICE

**IN RE: THE BEAR STEARNS COMPANIES INC.  
SECURITIES, DERIVATIVE AND EMPLOYEE  
RETIREMENT INCOME SECURITY ACT (ERISA)  
LITIGATION**

Financial Trust Co., Inc. v. The Bear Stearns Companies, )  
Inc., D. Virgin Islands, C.A. No. 3:09-106 )

MDL No. 1963

**CONDITIONAL TRANSFER ORDER (CTO-3)**

On August 18, 2008, the Panel transferred one civil action to the United States District Court for the Southern District of New York for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See* 572 F.Supp.2d 1377 (J.P.M.L. 2008). Since that time, two additional actions have been transferred to the Southern District of New York. With the consent of that court, all such actions have been assigned to the Honorable Robert W. Sweet.

It appears that the action on this conditional transfer order involves questions of fact that are common to the actions previously transferred to the Southern District of New York and assigned to Judge Sweet.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), this action is transferred under 28 U.S.C. § 1407 to the Southern District of New York for the reasons stated in the order of August 18, 2008, and, with the consent of that court, assigned to the Honorable Robert W. Sweet.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Southern District of New York. The transmittal of this order to said Clerk shall be stayed 14 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 14-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

  
\_\_\_\_\_  
Jeffrey N. Luthi  
Clerk of the Panel

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

Jan 07, 2010

FILED  
CLERK'S OFFICE

IN RE: THE BEAR STEARNS COMPANIES INC.  
SECURITIES, DERIVATIVE AND EMPLOYEE  
RETIREMENT INCOME SECURITY ACT (ERISA)  
LITIGATION

MDL No. 1963

NOTICE OF FILING OF  
CONDITIONAL TRANSFER ORDER (CTO-3)

Today, the Judicial Panel on Multidistrict Litigation filed a conditional transfer order (CTO) involving the above-captioned matter. This matter is transferred pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001). The order will be stayed for 14 days unless opposed in accordance with Rule 7.4(c).

Notices of Opposition should be filed by facsimile. File one Notice of Opposition (with an attached schedule of actions, if necessary) if opposing the transfer of more than one action. A consolidated Motion and Brief to Vacate the CTO, with attached schedule of actions, is acceptable and preferred. **Email or fax transmission of the motion and brief will not be accepted.**

Opposing counsel shall notify the Clerk of the Panel, in writing, of the name and address of the attorney designated to receive service of all pleadings, notices, orders and other papers relating to practice before the Judicial Panel. An appearance form is attached. (Note: If filing an appearance, include an email address for notification of subsequent filings.) The following deadlines pertain to this CTO Notice:

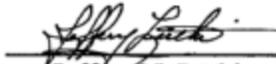
**Notice of Opposition and Appearance Due on or Before: January 21, 2010 (12 noon EST)**

If/when Notices of Opposition are filed, counsel will be notified of subsequent briefing schedules and related filings.

Inasmuch as there is an unavoidable delay between notification of the pendency of a tag-along action and the filing of a CTO, counsel are required by Rule 7.4(b) to notify this office **BY FACSIMILE**, at (202) 502-2888, of any official changes in the status of the tag-along action. Such changes could involve dismissal of the action, remand to state court, transfer to another federal court, etc., as indicated by an order filed by the district court.

Counsel should review Rule 5.2, dealing with service, and Rules 7.4 and 7.5, regarding "tag-along" actions. A Panel Service List is attached to this notice.

FOR THE PANEL:

  
Jeffery N. Lüthi  
Clerk of the Panel

**IN RE: THE BEAR STEARNS COMPANIES INC.  
SECURITIES, DERIVATIVE AND EMPLOYEE  
RETIREMENT INCOME SECURITY ACT (ERISA)  
LITIGATION**

MDL No. 1963

**PANEL SERVICE LIST (CTO-3)**

George C. Aguilar  
ROBBINS UMEDA LLP  
600 B Street  
Suite 1900  
San Diego, CA 92101

David B. Anders  
WACHTELL LIPTON ROSEN & KATZ  
51 West 52nd Street  
New York, NY 10019

David A.P. Brower  
BROWER PIVEN APC  
488 Madison Avenue  
New York, NY 10022

Michael J. Chepiga  
SIMPSON THACHER & BARTLETT LLP  
425 Lexington Avenue  
New York, NY 10017-3954

John K. Dema  
LAW OFFICES OF JOHN K DEMA PC  
1236 Strand Street  
Suite 103  
St. Croix, VI 00820-5008

William B. Federman  
FEDERMAN & SHERWOOD  
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Oklahoma City, OK 73120

Jill Goldberg  
SCHULTE ROTH & ZABEL LLP  
919 Third Avenue  
New York, NY 10022

Brad S. Karp  
PAUL WEISS RIFKIND WHARTON &  
GARRISON LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064

Jay B. Kasner  
SKADDEN ARPS SLATE MEAGHER &  
FLOM LLP  
Four Times Square  
New York, NY 10036

Lester L. Levy  
WOLF POPPER LLP  
845 Third Avenue  
New York, NY 10022

Derek W. Loeser  
KELLER ROHRBACK LLP  
1201 3rd Avenue  
Suite 3200  
Seattle, WA 98101

Gregory A. Markel  
CADWALADER WICKERSHAM & TAFT  
One World Financial Center  
New York, NY 10281

Randy M. Mastro  
GIBSON DUNN & CRUTCHER LLP  
200 Park Avenue  
New York, NY 10166-0193

**MDL No. 1963 - Panel Service List (CTO-3) (Continued)**

Chad C. Messier  
DUDLEY TOPPER & FEUERZEIG  
1000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, VI 00804

Edwin J. Mills  
STULL STULL & BRODY  
6 East 45th Street  
Suite 500  
New York, NY 10017

I. Stephen Rabin  
RABIN & PECKEL LLP  
317 Madison Avenue  
21<sup>st</sup> Floor  
New York, NY 10017

David Avi Rosenfeld  
COUGHLIN STOIA GELLER RUDMAN  
& ROBBINS LLP  
58 South Service Road  
Suite 200  
Melville, NY 11747

Samuel H. Rudman  
COUGHLIN STOIA GELLER RUDMAN  
& ROBBINS LLP  
58 South Service Road  
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Melville, NY 11747

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Robert A. Skirnick  
MEREDITH COHEN GREENFOGEL &  
SKIRNICK PC  
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New York, NY 10006

Richard Sokoloff  
3245 Route 112  
Suite 1  
Medford, NY 11763

Ralph M. Stone  
SHALOV STONE BONNER & ROCCO LLP  
485 Seventh Avenue  
Suite 1000  
New York, NY 10018

**UNITED STATES JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

**TO:** United States Judicial Panel  
on Multidistrict Litigation  
Thurgood Marshall Federal Judiciary Bldg.  
One Columbus Circle, N.E., Room G-255  
Washington, D.C. 20002

**THIS FORM MUST BE RETURNED TO  
THE JUDICIAL PANEL NO LATER THAN  
(Noon Eastern Time) January 21, 2010  
Panel Fax No.: (202) 502-2888**

MDL No. 1963 -- IN RE: **The Bear Stearns Companies Inc. Securities, Derivative and Employee Retirement  
Income Security Act (ERISA) Litigation**

**NOTICE OF APPEARANCE**

**PARTIES REPRESENTED (indicate plaintiff or defendant--attach list if necessary):**

**SHORT CASE CAPTION(s) (Include District(s), Civil Action No(s)-- attach list if necessary):**

\*\*\*\*\*

In compliance with Rule 5.2(c), R.P.J.P.M.L., 199 F.R.D. 425, 431 (2001), the following designated attorney is authorized to receive service of all pleadings, notices, orders, and other papers relating to practice before the Judicial Panel on Multidistrict Litigation on behalf of the plaintiff(s)/ defendant(s) indicated. I am aware that only one attorney can be designated for each party.

\_\_\_\_\_  
Date Signature of Attorney or Designee

**Name and Address of Designated Attorney:**

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

**ORIGINAL ONLY OF APPEARANCE NEEDED BY US FOR FILING**

A CERTIFICATE OF SERVICE WILL BE REQUIRED IF THE APPEARANCE IS RECEIVED AFTER THE DUE DATE PRINTED ABOVE.

JPML Form 18

**Nov 02, 2009**

FILED  
CLERK'S OFFICE

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: ELECTRONIC PUBLIC ACCESS TO PANEL  
DOCKET SHEETS AND RECORDS AND  
LIMITED WAIVER OF ELECTRONIC PUBLIC ACCESS FEES**

Misc. No. 09-03

**NOTICE TO COUNSEL**

Effective immediately, electronic public access to Judicial Panel docket sheets and other information will be made available on the Panel's public website. This is an interim measure while the Panel, in conjunction with the Administrative Office of the United States Courts, develops a case management/electronic case filing (CM/ECF) system that will include PACER access to Panel docket sheets and other information. The Executive Committee of the Judicial Conference of the United States has agreed to waive temporarily the electronic public access fees established pursuant to 28 U.S.C. § 1932.

Access to Panel docket sheets is available at [www.jpml.uscourts.gov](http://www.jpml.uscourts.gov), by clicking the "Case Management" button and then "Reports".

All questions or requests for assistance regarding this matter should be directed to the Clerk of the Panel's Office, 202-502-2800.

FOR THE PANEL:

  
Jeffrey N. Luthi  
Clerk of the Panel

**Nov 23, 2009**

FILED  
CLERK'S OFFICE

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**GENERAL ORDER  
AMENDING FILING DEADLINES**

On March 26, 2009, the United States Supreme Court approved revisions to federal court procedural rules, inter alia, changing the method by which time is calculated in the federal courts to multiples of seven days.

ACCORDINGLY, IT IS HEREBY ORDERED that all filing deadlines in the Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation pertaining to 28 U.S.C. § 1407 are amended as follows:

5-day deadlines become 7 days;

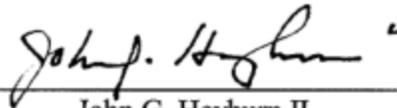
11-day and 15-day deadlines become 14 days; and

20-day deadlines become 21 days.

Intermediate weekends and holidays will be counted for all time periods.

IT IS FURTHER ORDERED that these rule changes are effective December 1, 2009.

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.  
David G. Trager