

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PRESENT: Hon. Sherry Klein Heitler
Administrative Order

HOME EQUITY MORTGAGE TRUST
SERIES 2006-1, HOME EQUITY
MORTGAGE TRUST SERIES 2006-3, and
HOME EQUITY MORTGAGE TRUST
SERIES 2006-4,

Plaintiffs,

- v -

INDEX NO. 156016/12

DLJ MORTGAGE CAPITAL, INC. and
SELECT PORTFOLIO SERVICING, INC.,

Defendants.

HOME EQUITY MORTGAGE TRUST
SERIES 2006-5,

Plaintiff,

- v -

INDEX NO. 653787/12

DLJ MORTGAGE CAPITAL, INC. and
SELECT PORTFOLIO SERVICING, INC.,

Defendants.

Administrative Order:

By letters dated January 9 and 12, 2015, counsel for defendants requests that these actions, which have been consolidated for purposes of scheduling, discovery and trial (the *Home Equity Actions*), be reassigned to the Hon. Marcy Friedman as a result of the recent retirement of the Hon. Melvin L. Schweitzer. By letter dated January 11, 2015, plaintiffs' counsel requests reassignment to the Hon. Shirley W. Kornreich as related to the following three residential mortgage-

backed securities (RMBS) cases: (1) *MBIA Ins. Corp. v Credit Suisse Secs. (USA) LLC*, Index No. 603751/09 (the *MBIA Action*); (2) *Ambac Assur. Corp. v DLJ Mortgage Cap., Inc.*, Index No. 600070/10; and (3) *Assured Guar. Mun. Corp. v DLJ Mortgage Cap., Inc.*, Index No. 652837/11.

In the absence of the consent of all parties to Referee Schweitzer continuing to preside over cases previously assigned to him, the cases are being randomly reassigned to other justices of the Commercial Division. I see no cause to deviate from that policy in this instance. Plaintiffs' counsel argues that these *Home Equity Actions* are closely-related to three RMBS cases handled by Justice Kornreich involving "sister deals." But two out of the three cases have been settled and discontinued. Only the *MBIA Action* remains, and it was brought by a monoline insurer, not a RMBS trustee, and involves fraudulent inducement, while these *Home Equity Actions* are repurchase actions alleging only breach of contract. Citing my Administrative Order dated May 23, 2013, defense counsel argues that the cases should be reassigned to Justice Friedman. However, that Administrative Order only applies to RMBS cases commenced after that date.

Accordingly, the Trial Support Office is directed to reassign the *Home Equity Actions* at random from Part 45 (Schweitzer, J.) to a Justice of the Commercial Division.

Dated: January 15, 2015

ENTER:  A.J.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION