

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

PRESENT: Hon. Jacqueline Silbermann
Administrative Order

JPMORGAN CHASE & CO. and J.P. MORGAN
SECURITIES INC.,

Plaintiffs,

- v -

INDEX NO. 600674/06

TRAVELERS INDEMNITY COMPANY, TWIN CITY
FIRE INSURANCE COMPANY and AMERICAN
INTERNATIONAL SPECIALTY LINES INSURANCE
COMPANY,

Defendants.

Administrative Order:

By letters dated June 14 and 19, 2006, counsel for defendants objected to the characterization of this action on the Request For Judicial Intervention (RJI), filed by plaintiffs, as related to another action pending before Commercial Division Justice Charles Ramos. Plaintiff stands by their RJI, and oppose reassignment of the action by letter dated June 16, 2006.

As a preliminary matter, section (l)(B) of the Court's Operations Manual provides that this matter should have been addressed to Justice Ramos in the first instance, and brought to the attention of the administrative judge if further review is required. See *also Application of Morfesis v Wilk*, 138 AD2d 244, 246 (1st Dept 1988) (approving practice of permitting the judge who has the arguably related case to determine if the cases are truly related). However, in order to expedite the matter and after conferring with Justice Ramos, defendants' application is hereby considered, and denied for the following reasons.

Plaintiffs filed an RJI on June 16, 2006, listing this case as related to *JPMorgan Chase & Co. and J.P. Morgan Securities v American International Specialty Lines Insurance Company and The Travelers Indemnity Company*, Index No. 601188/05, a suit seeking redress for the defendants' alleged wrongful refusal to indemnify the JP Morgan plaintiffs in accordance with defendants' insurance contracts for losses plaintiffs incurred in defending and settling a federal action captioned *In Re CFS-Related Securities Litigation*. The instant action likewise seeks redress for the defendants'

alleged wrongful refusal to indemnify the JP Morgan plaintiffs for losses incurred in defending and settling various state and federal lawsuits arising from the plaintiffs' provision of professional services to Enron Corp. While the underlying litigations for which plaintiffs seek insurance coverage in the two actions are unrelated, both lawsuits involve claims for coverage under the same and rather complicated program of insurance, described in both complaints as the "JPMC '97 - '01 Insurance Program." To the extent that Justice Ramos may be called upon to address policy interpretation issues regarding this program of insurance, the cases "bear sufficient relationship to warrant consideration by a single judge." *Application of Morfesis v Wilk*, 138 AD2d at 246. In addition, the outcome of the CFS action may be directly relevant to the coverage available to plaintiffs for the Enron-related claims pursuant to the program's "Absolute Tie-In Limits and Reinstatement Clause." See Complaint, ¶¶ 48-52.

Both plaintiffs' and defendants' counsel mistake assignment of related actions with joint trial and/or discovery orders, which may or may not be warranted here and is more properly addressed by motion to Justice Ramos. See CPLR 603(a).

Dated: June 27, 2006

ENTER: _____, A.J.

Check one: FINAL DISPOSITION

NON-FINAL DISPOSITION