



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

LIBOR-Based Financial Instruments  
Antitrust Litigation.

**MEMORANDUM AND ORDER**

11 MD 2262 (NRB)

This Document Relates to:

Exchange-Based Plaintiff Action  
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**NAOMI REICE BUCHWALD**  
**UNITED STATES DISTRICT JUDGE**

In our Memorandum and Order of November 29, 2011, we granted counsel's request to consolidate the class action complaints then-pending before the Court pursuant to Federal Rule of Civil Procedure 42(a). (Docket No. 66 at 10.) In the course of our research, we have realized that the consolidation pursuant to Rule 42(a) was in error given that our authority over actions transferred from districts outside of the Southern District of New York extends only to pretrial matters, while Rule 42 effectuates consolidation for all purposes (including trial). See 17 Moore's Federal Practice § 112.07[b] (3d ed. 2012) (citing Shulman v. Goldman, Sachs & Co. (In re Penn Cent. Commercial Paper Litig.), 62 F.R.D. 341, 344 (S.D.N.Y. 1974), aff'd 515 F.2d 505 (2d Cir. 1975)).

This error does not affect the class structure and motion schedule that has been put into place, as such measures fall

within the Court's authority to coordinate and consolidate pretrial proceedings pursuant to 28 U.S.C. § 1407. See In re Packaged Ice Litig., No. 08 Md. 1952 (E.D. Mich.) (similarly appointing interim class counsel for distinct classes of plaintiffs, directing the filing of amended complaints for each class, and ruling on dispositive motions as to each class); In re Rail Freight Fuel Surcharge Antitrust Litig., No. 07 Md. 1869 (D.D.C.) (same).

Accordingly, we reverse our previous consolidation order pursuant to Rule 42(a) and instead consolidate the class action complaints pending in the MDL for pretrial purposes only.

**SO ORDERED.**

Dated: New York, New York  
July 18, 2012

  
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NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE