

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

In Re: Lumber Liquidators Chinese-Manufactured
Flooring

MDL No. 2627

**DEFENDANT LUMBER LIQUIDATORS, INC.'S SUPPLEMENTAL STATEMENT OF
RECENT DEVELOPMENTS RELATING TO MOTION TO TRANSFER RELATED
ACTIONS FOR CONSOLIDATED PRE-TRIAL PROCEEDINGS PURSUANT TO 28
U.S.C. § 1407 AND RESPONSES**

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Defendant Lumber Liquidators, Inc. (“Lumber Liquidators”)¹ respectfully submits this supplemental statement of recent developments relating to the motion for transfer and responses to that motion that have been filed pursuant to 28 U.S.C. § 1407 for coordinated or consolidated pre-trial proceedings. Since Lumber Liquidators filed its response brief on March 31, 2015, many new cases have been filed throughout the country. This supplemental statement provides updated information about those cases.

I. DISTRICT COURT CASES

118 substantially similar putative class actions are currently pending against Lumber Liquidators in federal courts across the country. New cases continue to be filed almost daily. The cases are now spread out across 42 jurisdictions and 30 states. 61 are filed in the East and South²—all are federal Districts that are relatively near Lumber Liquidators’ Virginia headquarters. Two of these 61 cases are pending in the Eastern District of Virginia. 43 are filed in the West.³ The remaining 14 cases are spread throughout the middle of the country.⁴ Thus, the center of gravity continues to be the East and South.

The number of California cases is misleading because some of the plaintiffs’ lawyers have continued to spike the California tally by filing multiple cases in California. Eight firms have filed multiple California cases, and several of them split their cases by filing in different

¹ Some of the plaintiffs have improperly named other related entities: Lumber Liquidators Holdings, Inc., Lumber Liquidators Services, LLC, and Lumber Liquidators Leasing, LLC. These entities had no involvement in the allegations forming the basis of the complaints.

² This includes Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

³ This includes Arizona, California, Nevada, and Washington.

⁴ Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Ohio, and Oklahoma.

California districts.⁵ If one were to eliminate double-counting of the California cases because of spiking, the number of cases in California would be reduced by 10, to a total of 26. Moreover, in addition to their California suits, nine firms hedged their bets by filing additional cases in other states.⁶ These plaintiffs are attempting to tip the balance towards California. In short, the East and South hold the majority of the cases.

II. THE PARTIES' REQUESTED VENUES FOR TRANSFER

76 parties have presented views on where these cases should be transferred. Four parties—Lumber Liquidators and three plaintiffs—request the Eastern District of Virginia.

Seventeen parties have requested Southeastern venues, including the Eastern District of Virginia (4 parties), the District of South Carolina (1 party), the Eastern District of Louisiana (5 parties),

⁵ See (i) Hagens Berman Sobol Shapiro LLP: *Ronquillo v. Lumber Liquidators, Inc.*, No. 3:15-cv-1209 (N.D. Cal., filed Mar. 13, 2015), *Tyrrell v. Lumber Liquidators, Inc.*, No. 2:15-cv-1615 (C.D. Cal., filed Mar. 5, 2015), and *Washington v. Lumber Liquidators, Inc.*, No. 3:15-cv-1475 (N.D. Cal., filed Mar. 31, 2015); (ii) Ahdoon & Wolfson, PC: *Latta v. Lumber Liquidators, Inc.*, No. 2:15-cv-512 (E.D. Cal., filed Mar. 6, 2015) and *Silverthorn v. Lumber Liquidators, Inc.*, No. 3:15-cv-1428 (N.D. Cal., filed Mar. 27, 2015); (iii) Girard Gibbs LLP: *Ezovski v. Lumber Liquidators, Inc.*, No. 5:15-cv-1074 (N.D. Cal., filed Mar. 9, 2015), *Doss v. Lumber Liquidators, Inc.*, No. 3:15-cv-1225 (N.D. Cal., filed Mar. 16, 2015), *Picard v. Lumber Liquidators, Inc.*, No. 3:15-cv-1460 (N.D. Cal., filed Mar. 30, 2015); (iv) Boucher LLP: *Levy v. Lumber Liquidators, Inc.*, No. 2:15-cv-780 (S.D. Cal., filed Mar. 16, 2015) and *Flanagan v. Lumber Liquidators, Inc.*, No. 2:15-cv-1752 (C.D. Cal., filed Mar. 10, 2015); (v) Robertson & Associates, LLP: *Griffiths v. Lumber Liquidators, Inc.*, No. 2:15-cv-1783 (C.D. Cal., filed Mar. 11, 2015) and *Lyznick v. Lumber Liquidators, Inc.*, No. 2:15-cv-2817 (C.D. Cal., filed Apr. 16, 2015); (vi) Lozeau Drury: *Balero v. Lumber Liquidators, Inc.*, No. 3:15-cv-1005 (N.D. Cal., removed Mar. 4, 2015) and *Gentry v. Lumber Liquidators, Inc.*, No. 4:15-cv-2251 (N.D. Cal., filed May 19, 2015); (vii) Keller Rohrback LLP: *Prasad v. Lumber Liquidators, Inc.*, No. 3:15-cv-1315 (N.D. Cal., filed Mar. 20, 2015) and *Coats v. Lumber Liquidators, Inc.*, No. 2:15-cv-515 (E.D. Cal., filed Mar. 6, 2015); and (viii) Susman Godfrey LLP: *Schaber v. Lumber Liquidators, Inc.*, No. 3:15-cv-1822 (N.D. Cal., filed Apr. 22, 2015) and *Williams v. Lumber Liquidators, Inc.*, No. 2:15-cv-2260 (C.D. Cal., filed Mar. 26, 2015).

⁶ For example, Hagens Berman filed suit in Massachusetts and Pennsylvania, in addition to its three California suits. See *Bray v. Lumber Liquidators, Inc.*, No. 1:15-cv-10724 (D. Mass., filed Mar. 9, 2015), *Karlick v. Lumber Liquidators, Inc.*, No. 3:15-cv-474 (M.D. Pa., filed Mar. 9, 2015) and *Hyldburg v. Lumber Liquidators, Inc.*, No. 1:15-cv-11879 (D. Mass., filed May 21, 2015).

the Northern District of Florida (1 party), and the Southern District of Florida (6 parties). Fifty-five plaintiffs have requested the Northern District of California, and four have requested the Central District of California. Exhibit A is a chart reflecting the first and second choices of each party.

III. THE STATUS OF THE CASES

All of the actions remain in the preliminary stages of litigation. Lumber Liquidators has responded to the complaint in only one case, *Balero v. Lumber Liquidators, Inc.*, No. 3:15-cv-01005-JST (N.D. Cal.), and that was a motion to dismiss, but the briefing has been stayed until after this Panel rules on transfer and consolidation. Lumber Liquidators has been seeking stays and extensions of deadlines to file responsive pleadings in the other cases pending the Panel's transfer decision.

The *Balero* plaintiffs, along with a group of other California plaintiffs, filed a Supplemental Memorandum to inform the Panel about proceedings before Judge Tigar in the Northern District of California. (Dkt. No. 258). They are correct that Judge Tigar has taken certain limited actions. He entered an evidence preservation order for the cases in the Northern District of California, but declined to make any other rulings that would advance these cases. He stayed Lumber Liquidators' motion to dismiss in *Balero*, ruled that Lumber Liquidators need not respond to any of the complaints in the Northern District, ruled that it should not proceed with Rule 26 matters or discovery, and stayed the resolution of two motions brought by plaintiffs for a protective order, expedited discovery, and a preliminary injunction. He stated that "[a]ny order by the Court on the merits of these motions would also present a risk of inconsistency between the actions of this court and other courts that are currently presiding over similar litigation in other judicial districts.... Therefore, the interest of judicial economy would be furthered by deferring ruling on these motions until after the JPML has made its decision." (See Order

Staying Motions for Preliminary Injunction, Motion for Protective Order, Motion for Expedited Discovery at 10-11, *Silverthorn v. Lumber Liquidators, Inc.*, No. 3:15-cv-1428, Dkt. No. 60.)

Judge Tigar has not issued any orders that affect the merits of these cases.

Dated: May 22, 2015

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Exhibit A

Venue Recommendations

Defendant's Response		
<u>Defendant/Case</u>	<u>First choice</u>	<u>Second choice</u>
<i>Lumber Liquidators et al.</i> (Dkt. No. 102)	E.D. Va.	Other East Coast forums, such as D.S.C.
Plaintiffs' Responses		
<u>Plaintiff/Case</u>	<u>First choice</u>	<u>Second choice</u>
<i>Conte</i> (Dkt. No. 1) <i>Conte Reply</i> (Dkt. No. 144)	N.D. Cal.	N/A
<i>Constantine</i> (Dkt. No. 9)	N.D. Fla.	E.D. La.
<i>Pinelli</i> (Dkt. No. 10)	E.D. La.	N/A
<i>Flanagan</i> (Dkt. No. 26)	C.D. Cal.	N/A
<i>Giorlando</i> (Dkt. No. 81)	E.D. La.	C.D. Cal.
<i>Spivak</i> (Dkt. No. 89)	N.D. Cal.	S.D. Ohio
<i>Griffiths</i> (Dkt. No. 92)	N.D. Cal.	N/A
<i>Del Braccio</i> (Dkt. No. 93)	N.D. Cal.	N/A
<i>Prasad, Coats, Bailey</i> (Dkt. No. 95)	N.D. Cal.	N/A
<i>Badias</i> (Dkt. No. 97)	S.D. Fla.	N/A
<i>Beerbohm</i> (Dkt. No. 103)	E.D. La.	C.D. Cal.
<i>Matthews</i> (Dkt. No. 105)	E.D. La.	N.D. Cal.
<i>Garcia</i> (Dkt. No. 110)	N.D. Cal.	N/A
<i>Hurd</i> (Dkt. No. 116)	C.D. Cal.	N/A
<i>K. Williams</i> (Dkt. No. 119)	C.D. Cal.	N/A
<i>Balero, Parnella, Kleinsasser, Smith, Neuhaus, Petho, Steinlauf, Kelly, Emilio, Irving, Deutsch</i> (Dkt. No. 120)	N.D. Cal.	N/A

Venue Recommendations

<i>Schneider</i> (Dkt. No. 121)	S.D. Fla.	N/A
<i>Watson</i> (Dkt. No. 124)	D.S.C.	N/A
<i>Said</i> (Dkt. No. 127)	N.D. Cal.	N/A
<i>Sowizrol</i> (Dkt. No. 134)	E.D. La.	N/A
<i>Tyrrell, Bray, Karlick, Ronquillo, Washington</i> (Dkt. No. 142)	N.D. Cal.	N/A
<i>Ezovski, Doss, Picard</i> (Dkt. No. 146)	N.D. Cal.	N/A
<i>Bloomfield, Bryant, Burns, Caiola, Clark, Cox, Griffiths, Green, Latta, Martin, Silverthorn, Spivak, Universita, Vickery</i> (Dkt. No. 151)	N.D. Cal.	N/A
<i>Berg</i> (Dkt. No. 158)	N.D. Cal.	E.D. Cal.
<i>Pesce</i> (Dkt. No. 163)	N.D. Cal.	N/A
<i>Raygoza</i> (Dkt. No. 166)	C.D. Cal.	N/A
<i>Moreland</i> (Dkt. No. 170)	N.D. Cal.	N/A
<i>Sanchez</i> (Dkt. No. 183)	N.D. Cal.	N/A
<i>Myers</i> (Dkt. No. 190)	E.D. Va.	N/A
<i>McGreevy / J. Williams</i> (Dkt. No. 195)	S.D. Fla.	N/A
<i>Jeffries</i> (Dkt. No. 196)	N.D. Cal.	N/A
<i>Condra</i> (Dkt. No. 200)	E.D. Va.	N/A
<i>Johnson</i> (Dkt. No. 220)	N.D. Cal.	N/A
<i>Flores</i> (Dkt. No. 235)	N.D. Cal.	N/A
<i>Phelan</i> (Dkt. No. 240)	N.D. Cal.	N/A
<i>T. Williams / Crawford</i> (Dkt. No. 241)	S.D. Fla.	N/A
<i>Ruiz</i> (Dkt. No. 250)	N.D. Cal.	N/A
<i>Goray</i> (Dkt. No. 251)	N.D. Cal.	N/A

Venue Recommendations

<i>Musgrave</i> (Dkt. No. 252)	N.D. Cal.	N/A
<i>Chavez</i> (Dkt. No. 262)	N.D. Cal.	N/A
<i>Udit</i> (Dkt. No. 267)	E.D. Va.	N/A
<i>Gentry</i> (Dkt. No. 277)	N.D. Cal.	N/A

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE: LUMBER LIQUIDATORS CHINESE-
MANUFACTURED FLOORING PRODUCTS
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

MDL No. 2627

PROOF OF SERVICE

In compliance with Rule 4.1(a) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, I hereby certify that copies of the foregoing ***Supplemental Statement of Recent Developments Relating to Motion to Transfer Related Actions for Consolidated Pre-Trial Proceedings Pursuant to 28 U.S.C. § 1407 and Responses*** was served by ECF Email Notification to the email addresses of all counsel of record, unless otherwise sent by U.S. Mail as indicated below.

The above-listed notice was served by U.S. Mail on May 22, 2015 on the following:

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