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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

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9 IN RE Mortgage Electronic Registration) MDL DOCKET NO. 09-2119-JAT
 10 Systems (MERS) Litigation)

ORDER

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13 On January 14, 2010, the Court set forth an initial briefing schedule to determine the
 14 effect of the Panel's original transfer order in this docket. *See* Order on Practices and
 15 Procedures (Doc. #25). Pursuant to the transfer order and several later orders, the Panel
 16 separated and simultaneously remanded claims unrelated to the “formation and operation of
 17 the MERS system” to their respective transferor courts. The Court's subsequent March 23,
 18 2010, order specifically delineated which claims the Panel ordered transferred and which
 19 claims were remanded to the transferor court.

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21 The Court wishes to clarify two minor points. First, although the parties sought and
 22 the Court mentioned “remand” of certain claims to the transferor court, under Section
 23 1407(a), remands to a transferor court can only be effected by the Judicial Panel on
 24 Multidistrict Litigation. 28 U.S.C. § 1407; *see also* R.P.J.P.M.L. 7.6. Any previous
 25 reference in the March 23, 2010, order or subsequent orders of “remand” of certain
 26 non-MERS claims to the transferor court were intended solely to be an determination of
 27 which claims are pending before this Court and which claims remain in their respective
 28 transferor courts, pursuant to the Panel’s transfer orders.

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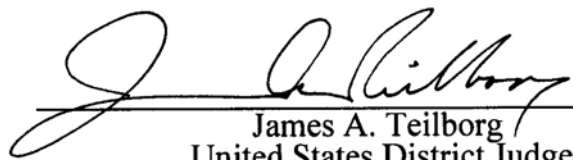
30 Second, the Court's March 23, 2010, order suggested that if any claims before the
 31 transferor court (i.e., claims not involving the formation and operation of MERS) evolve into

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1 claims concerning the formation and operation of MERS, then Defendant may move before
2 the transferor court to transfer such claims to this Court for inclusion in the MDL
3 proceedings. In such an event, however, the proper procedure would be to notify the Panel
4 of the pendency of any such a claim. The Panel could then issue a conditional transfer order
5 covering that claim, or the party seeking transfer of such a claim could file a motion before
6 the Panel to transfer the claim to this MDL. Under Section 1407, the transferor judge cannot,
7 on his or her own initiative, transfer claims to an MDL proceeding.

8 **IT IS ORDERED** that the Clerk of the Court shall file a copy of this Order in the
9 transferor court for each member case addressed by the March 23, 2010, order.

10 DATED this 20th day of April, 2010.

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14 James A. Teilborg
15 United States District Judge
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