

SULLIVAN & CROMWELL LLP

TELEPHONE: 1-212-558-4000
 FACSIMILE: 1-212-558-3588
 WWW.SULLCROM.COM

125 Broad Street
New York, NY 10004-2498

LOS ANGELES • PALM ALTO • WASHINGTON, D.C.

FRANKFURT • LONDON • PARIS

BEIJING • HONG KONG • TOKYO

MELBOURNE • SYDNEY

October 8, 2015

| |
|----------------------|
| USDC SDNY |
| DOCUMENT |
| ELECTRONICALLY FILED |
| DOC #: |
| DATE FILED: 10/9/15 |

By Facsimile

Honorable Victor Marrero,
 United States District Judge,
 Daniel Patrick Moynihan United States Courthouse,
 500 Pearl Street,
 New York, New York 10007.


Re: Anwar v. Fairfield Greenwich Ltd., No. 09-CV-118 (S.D.N.Y.) —
 Standard Chartered Cases

Dear Judge Marrero:

We write on behalf of the Standard Chartered Defendants (“SCB”) in response to the letter submitted yesterday from liaison counsel for the Standard Chartered Plaintiffs’ Steering Committee regarding the Order of the Court also issued yesterday (Dkt. No. 1425). Plaintiffs request that the Court “promptly schedule a conference to discuss possible remand to the Judicial Panel on Multidistrict Litigation and disposition of” the SCB Cases because “[p]retrial proceedings are concluded.” Although plaintiffs’ premise is incorrect, SCB does not disagree with the ultimate conclusion. There remain several matters that need to be addressed before these cases could be considered “trial ready.” Three of these we believe should be brought to this Court’s attention; none of which, however, should stand in the way of timely remand:

Uniform Negligence Count. Two-and-one-half years ago, this Court granted certain plaintiffs leave to re-plead negligence claims in the form of “a uniform negligence count” with allegations that are consistent with this Court’s prior rulings. (Aug. 22, 2014 Order at 1, Dkt. No. 1309; *see also* May 8, 2013 Order, Dkt. No. 1137.) In declaring the conclusion of pretrial and coordinated proceedings in this Court, SCB understands that no plaintiff will seek to re-plead such a negligence claim. If this is not correct, we ask the Court to set a short and firm deadline for the parties to meet and confer, and, if agreement cannot be reached, bring any dispute to this Court. Otherwise, this is not an impediment to remand.

Request for Voluntary Dismissal. In its July 29, 2015 Order concerning the application of SLUSA to these cases, the Court denied the request of seven plaintiffs in the SCB Cases to be dropped from this litigation because of the “strong inference” that

| | |
|--|--|
| <i>Plaintiffs</i> are directed to respond by <i>10-14-15</i> by letter not to exceed <i>three</i> <i>(3)</i> pages, to the matter set forth above by <i>Standard Chartered Defendants</i> | |
| SO ORDERED. | |
| <i>10-9-15</i> |  |
| DATE | VICTOR MARRERO, U.S.D.J. |

Honorable Victor Marrero

-2-

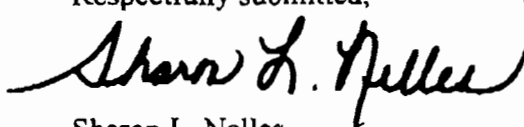
their request was made for the purpose of avoiding SLUSA preclusion. *Anwar v. Fairfield Greenwich Ltd.*, 2015 WL 4610406, *18-20 (S.D.N.Y. July 29, 2015). The Court also made clear in its Order that "SLUSA will apply regardless of those plaintiffs' continuation in the Standard Chartered Action." *Id.* at *20. Although any issue regarding these seven plaintiffs remaining in their respective cases should be resolved prior to remand of those cases, there is no reason the dismissal of these seven plaintiffs cannot now be expediently addressed.

Individualized Fact Discovery. Plaintiff-specific discovery still remains to be completed in 45 separate cases. Such discovery was specifically deferred in 42 of those cases, as so ordered by the Court, when it was expected that the Court would rule on eleven "summary judgment cases," thereby clarifying the necessity for, and the scope of, the deferred discovery. (Dkt. Nos. 826, 1193.) Now that the Court has determined that there will be no summary judgment practice in these MDL proceedings, any remaining issues concerning the need for and scope of plaintiff-specific discovery may be determined on a case-by-case (or, as may be appropriate, coordinated) basis by the relevant transferor courts.¹ Thus, although pretrial proceedings certainly cannot be characterized as complete in these cases, this does not require any delay of remand.

* * *

Subject to the above, it appears that the parties are in agreement that remand soon will be appropriate.

Respectfully submitted,



Sharon L. Nelles

cc: Standard Chartered Plaintiffs' Steering Committee (by e-mail)

¹ By letter dated August 29, 2014, SCB notified the Court that it intended to move for summary judgment in eleven SCB Cases, proposed a schedule for briefing the motion, and requested that the Court schedule a conference to discuss the contemplated motion or, in the alternative, set SCB's proposed briefing schedule. (Dkt. No. 1314.) On September 12, 2014, plaintiffs submitted a 10-page letter to the Court arguing that "the Court should deny leave to the SC[B] Defendants to move for summary judgment." The Court held a conference regarding these submissions on September 29, 2014, following which there were additional submissions concerning both SLUSA and plaintiffs' contention that SCB should be precluded from moving for summary judgment. (Dkt. No. 1329 at 47-48; Dkt. Nos. 1333, 1349.)