



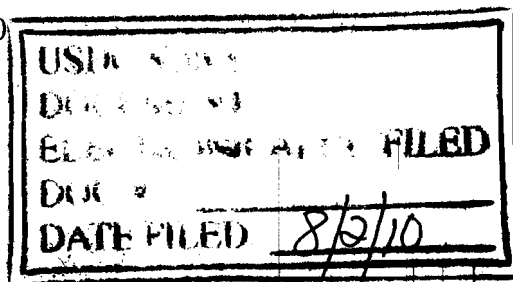
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July 30, 2010



**VIA OVERNIGHT MAIL**

Hon. Theodore H. Katz  
United States Magistrate Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007-1312

**Re: *Anwar, et. al. v. Fairfield Greenwich Limited, et. al.*,  
09-CV-118 (VM) (THK)**

Dear Magistrate Judge Katz:

We are counsel for Plaintiffs Jose Antonio Pujals and Rosa Julieta A. De Pujals (the “*Pujals* Plaintiffs”), in the putative class action, *Jose A. Pujals, et. al. v. Standard Chartered Bank International (Americas) Limited, et. al.*, No. 10-CV-2878 (VM) (THK) (“*Pujals*”), and write in response to the letter to Your Honor, dated July 29, 2010, sent by Defendants Standard Chartered International (USA), Ltd., Standard Chartered Bank International (Americas) Ltd., and Standard Chartered PLC (collectively, the “Standard Chartered Defendants”).<sup>1</sup>

In their letter, the Standard Chartered Defendants make several arguments regarding: (i) the purpose of the referral of this matter to Your Honor; and (ii) the *Pujals* Plaintiffs’ request for a separate discovery track. In each instance, the arguments offered by the Standard Chartered Defendants are both incomplete and incorrect. The *Pujals* Plaintiffs respond as follows.

**A. Judge Marrero’s July 23<sup>rd</sup> Endorsed Order Superceded the Prior Endorsed Order**

In their letter, the Standard Chartered Defendants argue that Judge Marrero already ruled that the Standard Chartered Defendants are not required to answer the *Pujals* complaint in his July 22<sup>nd</sup> endorsed Order. That said, they offer no reasonable alternative explanation as to why Judge Marrero

<sup>1</sup>The MDL Panel transferred *Pujals* to this District, by order dated April 1, 2010, for coordinated or consolidated pre-trial proceedings with the above-referenced action (“*Anwar*”), and on April 16, 2010, this Court consolidated *Pujals* with *Anwar* for pre-trial purposes.

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opted to refer this matter to Your Honor. Rather, the best they can muster is that Judge Marrero's July 23, 2010 endorsed Order referred the parties to Your Honor for some other, unstated purpose. The Standard Chartered Defendants are incorrect. Judge Marrero's July 23<sup>rd</sup> endorsed Order plainly was meant to supersede his earlier endorsed Order.<sup>2</sup>

Indeed, the Standard Chartered Defendants' failure to answer or respond to the *Pujals* complaint was the only issue raised by undersigned Counsel in the original letter that the *Pujals* Plaintiffs submitted on July 20, 2010 and the Reply Letter they submitted on July 22, 2010. And while Judge Marrero's July 22, 2010 endorsed Order did state that "the parties are directed to hold filing new motions to dismiss," that endorsed Order was issued prior to Judge Marrero's receipt of the *Pujals* Plaintiffs' Reply Letter, which explained why it makes no sense to stay the obligation of the the Standard Chartered Defendants to answer the complaint in *Pujals*. Perhaps most importantly, the Reply Letter submitted by the *Pujals* Plaintiffs attached the transcript of the December 22, 2009 teleconference with Your Honor, which contained statements made by counsel for the Standard Chartered Defendants' acknowledging that *Pujals* is distinct and that the Standard Chartered Defendants' response to the *Pujals* complaint should not be stayed along with the other Standard Chartered Cases. And the following day (*i.e.*, after receipt of the Reply Letter), Judge Marrero entered his July 23, 2010 endorsed Order.<sup>3</sup>

Plainly, the purpose of the July 23, 2010 endorsed Order was to have Your Honor decide whether the Standard Chartered Defendants are now required to answer the *Pujals Complaint*, as any other explanation defies logic.<sup>4</sup>

**B. *Pujals* Should Be on a Separate Discovery Track**

Contrary to the Standard Chartered Defendants' assertions, *Pujals* should be placed on a separate,

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<sup>2</sup>The Standard Chartered Defendants also seem to imply that undersigned Counsel sent its July 22, 2010 Correspondence to Judge Marrero after receiving Judge Marrero's July 22, 2010 endorsed Order, but the truth is that the Undersigned Counsel submitted the *Pujals* Plaintiffs' July 22, 2010 reply letter (the "Reply Letter") to the Court *prior* to receiving the Court's endorsed Order.

<sup>3</sup>The other Standard Chartered cases are: *Bhatia v. Standard Chartered International (USA) Ltd.*, No. 09-CV-02410; *Tradewaves Ltd. v. Standard Chartered International (USA) Ltd.*, No. 09-CV-09423; *Headway Investment Corp. v. American Express Bank Ltd.*, No. 09-CV-8500; *Lopez v. Standard Chartered Bank International (Americas) Ltd.*, No. 10-CV-0919; *Maridom Ltd. v. Standard Chartered Bank Internatinal (Americas) Ltd.*, No. 10-CV-0920; and *Maria Akriby Valladolid v. American Express Bank, Ltd.*, No. 10-CV-0918 (the "Standard Chartered Cases").

<sup>4</sup>The Standard Chartered Defendants incorrectly assert that the January 29 Initial Scheduling Order entered by Your Honor (and not Judge Marrero) justifies their failure to respond to the *Pujals* complaint. As explained in the letters submitted to Judge Marrero, it does not. But that argument highlights why Judge Marrero sought fit to refer this matter to Your Honor to interpret the Initial Scheduling Order entered by Your Honor.

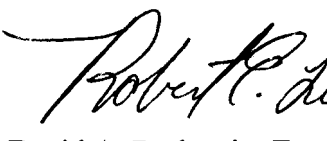
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but coordinated discovery track from *Anwar* and the Standard Chartered Cases. As detailed in undersigned Counsel's July 27 Letter to Your Honor, *Pujals* presents a distinct and focused two-count complaint for breach of contract and unjust enrichment based upon the improper charging of "phantom fees" that requires none of the complicated discovery necessary to the Standard Chartered Cases.

Rather, the discovery to be sought in *Pujals* is likely to focus on four (4) discreet topics: (i) who was charged a fee, (ii) what is the amount of the fees, (iii) when were the fees charged, and (iv) why were the fees charged. In stark contrast, the Standard Chartered Cases require different proof, which far exceeds in scope and nature, the proof required in *Pujals*. And there is no reason why the limited, focused discovery to be sought in *Pujals* should be tied to, or burdened by, discovery to be sought in the Standard Chartered Cases. Plaintiffs in *Anwar* and the Standard Chartered Cases have no need for the discovery required in *Pujals*, and the *Pujals* have no need for the discovery required in *Anwar* and the Standard Chartered Loss Cases. That is why *Pujals* is distinct. It is also why the Standard Chartered Defendants have acknowledged the distinct and unique nature of *Pujals*, repeatedly throughout this litigation, despite their curious effort to retreat from that position now.


The *Pujals* Plaintiffs thus respectfully request that this Court direct the Standard Chartered Defendants to answer the *Pujals* Complaint within a time frame that the Court deems proper and request a separate, coordinated discovery track so that *Pujals* can move forward in the most efficient manner possible.

Respectfully submitted,

  
David A. Rothstein, Esq.

cc: Counsel of Record

*Standard Chartered's response to the Pujals Complaint, in the form of a motion to dismiss, is not to be filed until Judge Marrero resolves the pending motions to dismiss. The discovery stay remains in place for all of these consolidated cases.*

8/2/10  
**SO ORDERED**  
  
**THEODORE H. KATZ**  
**UNITED STATES MAGISTRATE JUDGE**