



HEAVY & GENERAL LABORERS' LOCALS 472 & :  
172 PENSION & ANNUITY FUNDS, TEAMSTERS :  
LOCAL 408 PENSION FUND, and TEAMSTERS :  
LOCAL 863 GUARANTEED FUND, :  
: 03 Civ. 3860

Plaintiffs, :  
:

-v- :  
:

CITIGROUP, INC., et al. :  
:

Defendants. :  
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STATE OF WISCONSIN INVESTMENT BOARD and :  
MILWAUKEE EMPLOYEES' RETIREMENT SYSTEM, :  
: 03 Civ. 4499

Plaintiffs, :  
:

-v- :  
:

CITIGROUP, INC., et al. :  
-----X

MAINTENANCE EMPLOYEES TEAMSTERS LOCAL :  
416 PENSION FUND, IBEW LOCAL 683 :  
PENSION FUND PENSION PLAN, IBEW LOCAL :  
683 PROFIT SHARING ANNUITY PLAN, :  
PLUMBERS & STEAMFITTERS LOCAL 577 :  
PENSION FUND, PENSION FUND OF LOCAL :  
227, OPERATIVE PLASTERERS AND CEMENT :  
MASONS LOCAL 109 PENSION FUND, UFCW :  
LOCAL UNIONS AND EMPLOYERS PENSION PLAN :  
OF SOUTHWESTERN OHIO AREA, PLUMBERS AND :  
PIPEFITTERS LOCAL 219 PENSION FUND, :  
SHEET METAL WORKERS LOCAL PENSION FUND, :  
and IBEW LOCAL 246 PENSION FUND, :  
:

Plaintiffs, :  
:

-v- :  
:

BERNARD J. EBBERS, et al., :  
:

Defendants. :  
-----X

DENISE COTE, District Judge:

On July 3, 2003, the twenty plaintiffs in the six above-captioned Milberg Weiss Actions<sup>1</sup> filed a Response to an Order issued on June 11, 2003 ("June 11 Order"). The June 11 Order provided, inter alia, an opportunity for actions that appeared on this Court's docket after March 3, 2003 to show cause why prior opinions in this consolidated securities action denying remand motions do not also require denial of their pending motions to remand.<sup>2</sup> See In re WorldCom, Inc. Sec. Litig., 293 B.R. 308 (S.D.N.Y. Mar. 3, 2003); In re WorldCom, Inc. Sec. Litig., Nos. 02 Civ. 3288, 03 Civ. 167, 03 Civ. 338, & 03 Civ. 998 (DLC), 2003 WL 21031974 (S.D.N.Y. May 5, 2003). The six Milberg Weiss

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<sup>1</sup> Minnesota State Board of Investment (No. 03 Civ. 1283); Los Angeles Board of Fire & Police Pension Commissioners, Board of Administration of the Los Angeles City Employees' Retirement System, and Golden Gate Transit Amalgamated Retirement Plan (No. 03 Civ. 2839); The Maryland-National Capital Park and Planning Commission Employees' Retirement System (No. 03 Civ. 3859); Heavy & General Laborers' Locals 472 & 172 Pension & Annuity Funds, Teamsters Local 408 Pension Fund, and Teamsters Local 863 Guaranteed Fund (No. 03 Civ. 3860); State of Wisconsin Investment Board and Milwaukee Employees' Retirement System (No. 03 Civ. 4499); and Maintenance Employees Teamsters Local 416 Pension Fund, IBEW Local 683 Pension Fund Pension Plan, IBEW Local 683 Profit Sharing Annuity Plan, Plumbers & Steamfitters Local 577 Pension Fund, Pension Fund of Local 227, Operative Plasterers and Cement Masons Local 109 Pension Fund, UFCW Local Unions and Employers Pension Plan of Southwestern Ohio Area, Plumbers and Pipefitters Local 219 Pension Fund, Sheet Metal Workers Local Pension Fund and IBEW Local 246 Pension Fund (No. 03 Civ. 4500).

<sup>2</sup>The June 11 Order required actions appearing on this Court's docket between March 3 and June 11 to show cause by July 3; actions appearing on this Court's docket after June 11 are required to show cause within three weeks of their arrival on the docket.

Actions were transferred or conditionally transferred to this Court's docket after March 3.<sup>3</sup> The Response does not show cause why the prior opinions of this Court denying remand motions do not also govern the pending remand motions filed in these six actions prior to their transfer to this Court.

First, in the case of one action -- the action brought by the State of Wisconsin Investment Board and Milwaukee Employees' Retirement System (together "Wisconsin") -- this Court has already and repeatedly addressed the remand arguments made on plaintiffs' behalf. Through the March 3 Opinion, its motion for remand was denied. The May 5 Opinion denied the Milberg Weiss motion for reconsideration brought on behalf of Wisconsin and others. A May 20, 2003 Opinion rejected additional arguments for remand made by Milberg Weiss for Wisconsin and others. Milberg Weiss has not explained why this Court should entertain quadruplicate motion practice on behalf of Wisconsin. Accordingly, the motion to remand brought by Wisconsin and

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<sup>3</sup> Two of the six, Nos. 03 Civ. 1283 and 03 Civ. 2839, were transferred prior to June 11, 2003. Of the remaining four, transfer has been completed in two actions, one on June 13, 2003, and one on July 15, 2003 (Nos. 03 Civ. 3859 and 03 Civ. 3860). The last two actions, Nos. 03 Civ. 4499 and 03 Civ. 4500, were conditionally transferred to this Court's docket on June 20, 2003. Having moved in three actions prior to the date of final transfer, and in one action within less than three weeks, plaintiffs are deemed to have waived the additional time afforded them by the June 11 Order.

originally filed before the United States District Court for the Western District of Wisconsin is denied.<sup>4</sup>

While the other eighteen plaintiffs were not among the forty-one funds whose arguments were addressed in the prior opinions of this Court, Milberg Weiss has not shown why the prior opinions should not also apply to their actions. Instead of distinguishing the latest movants for remand from their unsuccessful predecessors, Milberg Weiss uses this opportunity to reargue issues repeatedly addressed by this Court in previous opinions. For instance, whether or not the WorldCom Plan of Reorganization, when confirmed, will disallow any claim against WorldCom for contribution or indemnification does not affect whether there was subject matter jurisdiction over these actions at the time of removal. See In re WorldCom, Inc. Sec. Litig., 294 B.R. 553 (S.D.N.Y. 2003). Finally, the interplay of the Securities Act of 1933 and the bankruptcy removal provisions were addressed in detail in the March 3 Opinion. A recent decision by the District Court in the Middle District of Tennessee reaching a contrary conclusion does not alter this Court's analysis. See

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<sup>4</sup>In a footnote, Milberg Weiss asserts that Wisconsin has "unique" arguments in support of equitable remand, but does not identify what those arguments might be or explain why the prior opinions of this Court addressing Wisconsin's motions have not already addressed them.

Tennessee Consol. Ret. Sys. v. Citigroup, Inc., No. 3:03-0128,  
2003 U.S. Dist. LEXIS 10266 (M.D. Tenn. May 9, 2003).<sup>5</sup>

Conclusion

The July 3, 2003 renewed request by Milberg Weiss for remand of the above-captioned six actions brought on behalf of twenty pension funds is denied.

SO ORDERED:

Dated: New York, New York  
July 23, 2003

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DENISE COTE  
United States District Judge

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<sup>5</sup>The Honorable William S. Haynes, Jr. stayed his order of remand for thirty days to allow an opportunity for appeal to the Sixth Circuit.