

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

BNY MELLON, NATIONAL ASSOCIATION  
and THE BANK OF NEW YORK MELLON,

Plaintiffs,

v.

OCCUPY PITTSBURGH, an unincorporated  
association, JANE DOES (1-50), and JOHN  
DOES (1-50),

Defendants.

CIVIL DIVISION

No.: GD 11-025549

**PLAINTIFFS' MOTION TO ASSIGN  
INJUNCTION CASE TO THE  
COMMERCE AND COMPLEX  
LITIGATION CENTER**

Code: 003-Trespass Against Property Owner

Filed on behalf of Plaintiffs BNY Mellon,  
National Association and The Bank of New  
York Mellon

Counsel of Record for These Parties:

Daniel I. Booker, Esquire  
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Plaintiffs, )	No.: GD 11-025549
v. )	
OCCUPY PITTSBURGH, an unincorporated )	
association, Jane Does (1-50), and John Does )	
(1-50), )	
Defendants. )	
)	
)	
)	

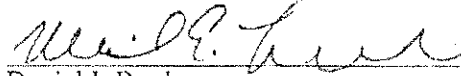
**PLAINTIFFS' NOTICE OF PRESENTATION**

To: Defendant Occupy Pittsburgh, an unincorporated association  
Defendants Jane Does (1-50), and  
Defendants John Does (1-50)

TAKE NOTICE that Plaintiffs, BNY Mellon, National Association and The Bank of New York Mellon (collectively, "BNY Mellon"), will present *Plaintiffs' Motion to Assign Injunction Case to the Commerce and Complex Litigation Center* before the Honorable Christine A. Ward, in the Court of Common Pleas of Allegheny County, 820 City-County Building, 414 Grant Street, Pittsburgh, PA 15219 on December 22, 2011, at 9:30 a.m. or as soon thereafter as the Court directs. You are invited to attend and take any actions you may deem necessary.

REED SMITH LLP

Dated: December 12, 2011



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*Counsel for Plaintiffs BNY Mellon,  
National Association and The Bank of New  
York Mellon*

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

BNY MELLON, NATIONAL ASSOCIATION and THE BANK OF NEW YORK MELLON,	) Civil Division
	)
Plaintiffs,	) No.: GD 11-025549
	)
v.	)
	)
OCCUPY PITTSBURGH, an unincorporated association, JANE DOES (1-50), and JOHN DOES (1-50),	)
	)
Defendants.	)
	)
	)

**PLAINTIFFS' MOTION TO ASSIGN INJUNCTION CASE  
TO THE COMMERCE AND COMPLEX LITIGATION CENTER**

Plaintiffs, BNY Mellon, National Association and The Bank of New York Mellon, a New York banking corporation (collectively, "BNY Mellon"), by its undersigned counsel, respectfully requests the Court to assign the above-captioned action (the "Action") to the Commerce and Complex Litigation Center ("the Center") of the Court of Common Pleas for Allegheny County, Pennsylvania. In support of this Motion, BNY Mellon states:

1. On December 12, 2011, BNY Mellon filed its *Verified Complaint for Injunctive Relief*.
2. Through the Action, BNY Mellon seeks to end the ongoing occupation of its BNY Mellon Green property by Defendant Occupy Pittsburgh and its members and supporters.
3. For the reasons stated herein, BNY Mellon respectfully submits that the Action meets the standards for referral to the Center and respectfully requests that this case be assigned to the Center.

4. The Center exists to hear two distinct categories of case designations: commercial cases and complex cases. *See Procedures Of The Commerce And Complex Litigation Center (Types of Cases That May Be Assigned to the Center Introduction)*. The Action meets the standards for a complex case.

5. The complex case designation “refers to litigation, that if not declared complex, will in all likelihood require the involvement of more than one judge and the expenditure of a substantial amount of judicial resources and will benefit significantly from case management.” *Id.*

6. Factors militating in favor of finding a complex designation and making an assignment to the Center include, *inter alia*, the likelihood of extensive motions practice, the complexity of legal and factual issues, and the necessity to conserve judicial resources in the management of the action. *Id.*

7. As set forth in the Complaint, faced with a mass occupation of its property, BNY Mellon caused to be delivered and posted at BNY Mellon Green on December 9, 2011 a notice that required Defendants to remove “all tents and other structures as well as camping equipment and other stored personal items from BNY Mellon Green by no later than noon on Sunday, December 11, 2011.” The Notice also states that “[a]fter that date, overnight camping and the presence of any structures, camping equipment and stored personal items will be prohibited and considered an unlawful trespass....” *See Verified Complaint*, incorporated by reference as if fully set forth herein, at Exhibit 12.

8. Defendants have ignored the Notice and have continued to occupy BNY Mellon Green. *Id.* at ¶ 57.

9. The Action thus presents a unique set of circumstances whereby a local special interest group (Defendant Occupy Pittsburgh) and its members and supporters first occupied private property (i.e., BNY Mellon Green) and now have defiantly ignored the posted request of the owner, BNY Mellon, to vacate BNY Mellon Green.

10. It is clear that Defendants intend to raise a substantial Court fight here. If Defendants intended to respect BNY Mellon's rights voluntarily they would have done so by now.

11. Furthermore, given BNY Mellon's clear property rights, Defendants can only seek to defend this Action by attempting to obfuscate and invoke novel and complex theories which, while ultimately without merit—as explained in detail in BNY Mellon's Complaint—will nonetheless require the Court to address these novel and complex issues.

12. While BNY Mellon cannot comment on the specifics of Defendants' purported defenses to the Action, BNY Mellon anticipates that the Action likely will result in extensive motions practice. In addition to a motion for preliminary injunction, Defendants' novel theories likely will result in at least one or more motions, including a motion for summary judgment filed by BNY Mellon or, alternatively, a motion for expedited trial on the merits, seeking entry of a permanent injunction.

13. Moreover, in addition to motions practice, the Action is likely to have multiple proceedings before the Court, including an evidentiary preliminary injunction hearing as well as a final merits determination. If permitted to remain in the general docket, the Action likely will require the involvement of more than one judge and the expenditure of a substantial amount of judicial resources re-learning the case and issues.

14. The Action will significantly benefit from case management, and judicial economy will be best served by having the continuity achievable through management of all issues arising in this Action by a single Court.

15. All of these issues arise in the context of exigent circumstances. Winter is upon us. Defendants' refusal to vacate BNY Mellon's property raises critical health and safety issues which are of the utmost concern to BNY Mellon as the property owner and as a member of the community. These concerns will become even more acute as the weather turns colder. In these circumstances, assignment of this case to the Center before a single judge for case management and prompt resolution is of vital importance. Indeed, as set forth in the Verified Complaint, at ¶ 44. BNY Mellon historically closes its BNY Mellon Green property during the winter. Defendants' occupation would prevent BNY Mellon from doing so and otherwise is depriving BNY Mellon of the use of its property.

16. The Action also does *not* involve any of the subjects that this Court has classified as typically inappropriate for assignment to the Center. *See* Procedures of The Commerce And Complex Litigation Center, C. Cases That Will Not Be Assigned To The Center.

17. Finally, this Motion is timely because this case is in its early stages. *See* Procedures of the Commerce and Complex Litigation Center, Timing. BNY Mellon filed its *Verified Complaint* contemporaneously with service of this Motion.

18. For all of these reasons, this Action qualifies for complex designation and assignment to the Center.

WHEREFORE, BNY Mellon respectfully requests that that Court enter an Order assigning the above-captioned case to the Commerce and Complex Litigation Center.

Dated: December 12, 2011

Respectfully submitted,



Daniel I. Booker

PA I.D. No. 10319

Joel P. Aaronson

PA I.D. No. 28067

Michael E. Lowenstein

PA I.D. No. 34880

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Counsel for Plaintiffs BNY  
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	)	
Defendants.	)	
	)	

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, upon consideration of Plaintiffs' Motion to Assign Case to the Commerce and Complex Litigation Center, it is hereby ORDERED that said motion is GRANTED. The above-captioned case is hereby assigned to the Commerce and Complex Litigation Center before Judge \_\_\_\_\_.

BY THE COURT:  
\_\_\_\_\_