

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

Heritage Equity Group 401(k) Savings Plan,)
et al.,)
)
 Plaintiffs,)
)
v.)
)
Mid Atlantic Capital Corporation and)
SunGard Institutional Brokerage, Inc.,)
)
 Defendants.)

**No. 3:07-cv-841
Judge Trauger
Magistrate Judge Bryant**

John C. McLemore, Trustee,)
)
 Plaintiff,)
)
v.)
)
)
Regions Bank, as Successor in Interest by)
Merger to AmSouth Bank, and)
Mid Atlantic Capital Corporation,)
)
 Defendants.)

**No. 3:08-cv-21
Judge Trauger
Magistrate Judge Bryant**

**MACC'S MOTION FOR LEAVE TO FILE REPLY MEMORANDUM
IN SUPPORT OF ITS MOTION TO CONSOLIDATE**

Pursuant to Local Rule 7.01(b), Mid Atlantic Capital Corporation respectfully requests leave to file the short reply memorandum attached to this motion as Exhibit 1.

Respectfully submitted,

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**REPLY MEMORANDUM IN SUPPORT OF MACC’S
MOTION TO CONSOLIDATE**

Mid Atlantic Capital Corporation (“MACC”) has moved the Court to consolidate these related actions pursuant to Federal Rule of Civil Procedure 42(a) (No. 3:07-cv-841 Doc. 62-63; No. 3:08-cv-21 Doc. 8-9). The responses to MACC’s motion do not oppose consolidation for discovery and scheduling purposes, but some responses do oppose consolidation for trial, should trial be necessary (see No. 3:07-cv-841 Doc. 64, 66, 68; No. 3:08-cv-21 Doc. 10, 11). MACC maintains that these cases cannot be maintained separately for any purpose, as each purports to

bring against MACC a number of identical claims on behalf of a number of identical parties based on identical underlying allegations. Nonetheless, later developments, including rulings on outstanding motions to dismiss both complaints, may render moot, or otherwise resolve, the objections to consolidation for trial. MACC therefore respectfully suggests that the Court consolidate the cases for discovery and scheduling purposes, but defer deciding how the cases are to be tried, if trial proves necessary. MACC further requests that the consolidated cases be set for a case management conference so that the parties and the case manager may establish a scheduling order applicable to the consolidated cases and address other case management issues.¹

Respectfully submitted,

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¹ This Court withdrew the reference in the Trustee's Case on February 11, 2008 (No. 3:08-cv-21 Doc. 7). To date, the initial case management conference for the Trustee's Case has not been set.

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