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## Another Court Dismisses PPP Agent Fee Action

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Today, in the second decision on a motion to dismiss in cases brought by “agents” seeking fees from lenders for allegedly helping small business borrowers obtain loans under the Paycheck Protection Program (PPP), Judge Rakoff in the Southern District of New York granted defendants’ motions to dismiss in six consolidated actions brought by putative agents against JPMorgan Chase Bank, N.A., Citibank, N.A., Signature Bank, and MUFG Union Bank, N.A. See *Johnson v. JPMorgan Chase Bank, N.A.*, No. 20-cv-04100-JRS, 2020 WL 5608683 (S.D.N.Y. 2020) (lead case). As to the “central legal question” of “whether the PPP entitles plaintiffs to some portion of the fees paid by the federal government to the defendant banks . . . where plaintiffs allegedly assisted borrowers in securing the loans but had no agreements with the banks,” Judge Rakoff held that the PPP does not. Consistent with the SBA’s long-standing regulatory requirement that an agent execute a compensation agreement governing services provided in connection with an SBA loan application, Judge Rakoff concluded that neither the CARES Act nor the implementing regulations “create an independent entitlement for agent fees; rather [they] simply impose[] a limit on the amount of fees an agent is permitted to collect in the event of an agreement for agent fees.” Judge Rakoff dismissed plaintiffs’ common law claims for the same reason, and dismissed plaintiffs’ state statutory claims for failure to plead the requisite elements. Furthermore, and in the alternative, Judge Rakoff held that the CARES Act does not provide a private right of action, and thus plaintiffs could not bring a claim for declaratory judgment based on a violation of the CARES Act or related regulations. Lastly, Judge Rakoff dismissed claims against two defendants for lack of subject matter jurisdiction because plaintiffs had failed to adequately allege standing.

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