

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, FIRST DEPARTMENT

MBIA INSURANCE CORPORATION,

Plaintiff,

-against-

COUNTRYWIDE HOME LOANS, INC.,
COUNTRYWIDE SECURITIES CORP.,
COUNTRYWIDE FINANCIAL CORP.,
COUNTRYWIDE HOME LOANS
SERVICING, L.P. and BANK OF AMERICA
CORP.,

Defendants.

Index No. 08/602825

IAS Part 3 (Bransten, J.)

NOTICE OF ENTRY

PLEASE TAKE NOTICE that the within is a true copy of the Decision and Order entered
in the Clerk's office of the Appellate Division, First Department on April 5, 2012.

DATED: New York, New York
April 5, 2012

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SULLIVAN, LLP

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Gonzalez, P.J., Tom, Catterson, Renwick, Richter, JJ.

7286N-		Index	651612/10
7287N-			602825/08
7288N-			650736/09
7289N &			650042/09
M-664-			
M-665-			
M-745	Ambac Assurance Corp., et al.,		
	Plaintiffs-Respondents,		

-against-

Countrywide Home Loans, Inc., et al.,
Defendants,

Bank of America Corp.,
Defendant-Appellant.

- - - - -

MBIA Insurance Corporation,
Plaintiff-Respondent,

-against-

Countrywide Home Loans, Inc., et al.,
Defendants,

Bank of America Corp.,
Defendant-Appellant.

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Financial Guaranty Insurance Co.,
Plaintiff-Respondent,

-against-

Countrywide Home Loans, Inc., et al.,
Defendants,

Bank of America Corp.,
Defendant-Appellant.

- - - - -

Syncora Guarantee, Inc.,
Plaintiff-Respondent,

-against-

Countrywide Home Loans, Inc., et al.,
Defendants,

Bank of America Corp.,
Defendant-Appellant.

O'Melveny & Myers LLP, New York (Jonathan Rosenberg of counsel),
for appellant.

Patterson Belknap Webb & Tyler LLP, New York (Robert P. LoBue of
counsel), for Ambac Assurance Corp. and The Segregated Account of
Ambac Assurance Corporation, respondents.

Quinn Emanuel Urquhart & Sullivan, LLP, New York (Peter E.
Calamari of counsel), for MBIA Insurance Corporation, respondent.

Kutak Rock LLP, New York (Robert A. Jaffe of counsel), for
Financial Guaranty Insurance Co., respondent.

Allegaert Berger & Vogel LLP, New York (David A. Berger of
counsel), for Syncora Guarantee, Inc., respondent.

Orders, Supreme Court, New York County (Eileen Bransten,
J.), entered October 31, 2011 and November 2, 2011, which, among
other things, denied defendant Bank of America Corp.'s motions to
sever and consolidate plaintiffs' successor liability claims for
purposes of discovery, and held in abeyance defendant's motion to
consolidate the successor liability claims for purposes of trial,
unanimously affirmed, with costs.

This is a consolidated appeal involving four related but separate claims by monoline insurers for primary liability against the Countrywide defendants in connection with financial guarantee insurance covering mortgage-backed securities. The actions also involve successor liability against defendant Bank of America. The court properly exercised its discretion in denying defendant's motion to sever plaintiffs' successor liability claims from the primary claims and to consolidate them, for purposes of discovery, in a single action. The successor liability actions are at completely different stages of

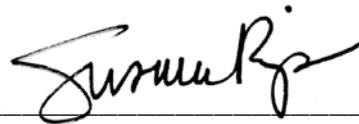
discovery, and consolidation would result in undue delay (see *Barnes v Cathers & Dembrosky*, 5 AD3d 122 [2004]).

- M-664 - *Syncora Guarantee Inc. v Countrywide Home Loans, Inc., et al. and Bank of America Corp.***
- M-665 - *MBIA Insurance Corporation v Countrywide Home Loans, Inc., et al. and Bank of America Corp.***
- M-745 - *MBIA Insurance Corporation, et al. v Countrywide Home Loans, Inc., et al. and Bank of America Corp.***

Motions to supplement the record on appeal (M-664, M-665) granted; cross motion to strike the supplemental record and reply brief, or for leave to supplement the record in the event the motion (M-665) is granted (M-745), granted to the extent of granting leave to supplement the record.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: APRIL 5, 2012



CLERK