

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE MERRILL LYNCH & CO., INC.	:	
RESEARCH REPORTS SECURITIES LITIGATION	:	02 MDL 1484 (MP)
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CICCARELLI,	:	
	:	
Plaintiff,	:	
v.	:	02 CV 4051 (MP)
	:	
MERRILL LYNCH & CO., INC.,	:	
	:	
Defendant.	:	
-----X		
DABIT,	:	
	:	
Plaintiff,	:	
v.	:	02 CV 8472 (MP)
	:	
MERRILL LYNCH & CO., INC.,	:	
	:	
Defendant.	:	
-----X		
IJG INVESTMENTS, L.P.,	:	
	:	
Plaintiff,	:	
v.	:	02 CV 9487 (MP)
	:	
MERRILL LYNCH & CO., INC.,	:	
	:	
Defendant.	:	
-----X		
SMITH,	:	
	:	
Plaintiff,	:	
v.	:	02 CV 4205 (MP)
	:	
MERRILL LYNCH & CO., INC.,	:	
	:	
Defendant.	:	
-----X		

OPINION AND DECISION

Defendants have moved to dismiss the complaints pursuant to Fed. R. Civ. P. 12(b)(6) as preempted by the Securities Litigation Uniform Standards Act of 1998, Pub. L. No. 105-353, 112 Stat. 3227 (“SLUSA”) (codified as 15 U.S.C. §§ 77p & 78bb(f)).

The four actions that are the subject of the instant motion purport to eschew federal claims and instead, assert “state law” claims based on the very same alleged series of transactions and occurrences asserted in the federal securities actions currently being coordinated before this Court.

SLUSA provides that preempted causes of action may not be maintained in any state or federal court. See 15 U.S.C. §§ 77p(b) & 78bb(f)(1). SLUSA expressly preempts, and provides for the removal and dismissal of, any private class action seeking damages based on state statutory or common law that alleges misrepresentations or omissions of material facts or any manipulative or deceptive device or contrivance in connection with the purchase or sale of a nationally traded security.

The claims alleged in the four actions fall squarely within SLUSA’s ambit.

Accordingly, the motions to dismiss all of the complaints are hereby granted and the motions to remand the Ciccarelli, IJG Investments, and Smith actions are denied.

So Ordered.

April 10, 2003

MILTON POLLACK
SENIOR UNITED STATES DISTRICT JUDGE