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Bank bonus dispute goes to High Court

By Jane Croft, Law Courts Correspondent

This week 104 investment bankers will head to the High Court in a dispute over €50m of unpaid bonuses, in what promises to be a [landmark case on bankers' pay packages](#).

The eagerly awaited legal action is being brought by the bankers who were employed in 2008 by Dresdner Kleinwort, now owned by [Commerzbank](#), Germany's second-largest lender by assets. It is the first such group action of its kind to be heard in the High Court.

It also comes amid growing political tensions in the UK in what is shaping up to be the most contentious year-end bonus season for years. The case will also attract political scrutiny in Germany where taxpayer money was used to help [bail out Commerzbank](#) in 2009.

The two groups of bankers were employed in 2008 by Dresdner Kleinwort. The case centres on allegations that Dresdner created a "guaranteed minimum bonus pool of €400m" at the height of the credit crunch to avoid a staff exodus.

The bankers, each expecting bonuses ranging from €15,000 to €2m, allege that they later received a tenth of the bonuses they had expected.

Staff had been told at a "town hall" meeting in August 2008 by Stefan Jentsch, then head of Dresdner's corporate and investment banking arm, that a guaranteed minimum bonus pool of €400m was allocated to front and middle-office employees to be awarded on a discretionary basis, a pre-trial court hearing was told last year.

Several well-known bankers are expected to give evidence in the case, which will open properly on Wednesday, barring a last-minute settlement.

Mr Jentsch, who now works for Perella Weinberg Partners, the investment banking boutique, and Martin Blessing, Commerzbank's chief executive, have

both submitted written evidence to the court and are expected to give evidence.

Several of the bankers, advised by Stewarts Law and Mishcon de Reya, will also take the witness stand.

The outcome of the case is being closely watched by other banks and by individual bankers who are considering taking legal action themselves because their bonuses were lower than they had hoped – or non-existent.

Commerzbank has said in the past that it would demonstrate at a full trial that Dresdner Bank was entitled to reduce its employees' 2008 discretionary bonuses in light of the marked deterioration in the investment bank's performance in late 2008.

Richard Fox, head of employment at law firm Kingsley Napley, said: "So far we are seeing bankers looking at advice in relation to their position, although they are not suing. That might well change depending on which way the ruling goes.

"Bonus cases are complicated and the stakes are usually high. What is interesting about this case is because it will look at when bankers receive assurances from their bank, is their bank able to resile from these obligations. Lawyers will be looking at the ruling really carefully."

Ronnie Fox, employment lawyer, said: "The case will be closely watched for what it shows about the inner workings of banks and bonuses. However, the facts here are very special so it's not clear there are wider implications. What is interesting is the fact that so many bankers have clubbed together to litigate."

He said he did not expect many forthcoming lawsuits about bonuses because in most cases bonuses were discretionary and employees would have to prove that the bank had acted irrationally or perversely – this would be difficult in the current gloomy financial climate.