

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No.: 1:24-cv-22142-DPG

FANNY B. MILLSTEIN and
MARTIN KLEINBART,

Plaintiffs,

v.

WELLS FARGO BANK, N.A.,

Defendant.

**DEFENDANT WELLS FARGO BANK, N.A.’S
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) submits this Notice of Supplemental Authority in further support of its Motion to Dismiss [DE 25]:

FW Distrib., LLC v. J.P. Morgan Chase Bank, N.A., 2024 U.S. Dist. LEXIS 199805 (S.D. Fla. Nov. 1, 2024) further supports Wells Fargo’s argument that Plaintiffs have not sufficiently alleged that Wells Fargo had actual knowledge of any alleged scheme [DE 25, at 7–12], or substantially assisted any such scheme [DE 25, at 12–15], both of which are required to assert a claim for aiding and abetting.

In *FW Distributing*, the plaintiff fell victim to a scheme and wired funds to scam accounts, and thereby brought claims for aiding and abetting against the banks to which it sent funds. The Court granted defendants’ motions to dismiss, holding that allegations of routine banking services were “insufficient to show the *actual* knowledge necessary for Plaintiff’s aiding and abetting claims.” *Id.* at *25. Likewise, since “Plaintiff [did] not allege any affirmative steps” other than processing transactions and allowing the fraudsters to conduct business, the Court found that the

defendants “merely provided ministerial services,” and thus there was “not a sufficient factual basis for substantial assistance.” So too here.

Dated: November 26, 2024

Respectfully submitted,

MCGUIREWOODS LLP

/s/ Emily Y. Rottmann

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Attorneys for Defendant Wells Fargo Bank, N.A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 26, 2024, a true copy of the foregoing was filed with the Court using the CM/ECF system, which will send notice to counsel of record.

/s/ Emily Y. Rottmann
Attorney