

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case Number: 1:24-cv-22142-DPG

**FANNY B. MILLSTEIN and
MARTIN KLEINBART,**

Plaintiffs,

v.

WELLS FARGO BANK, N.A.,

Defendant.

**JOINT MOTION FOR LEAVE TO FILE DISCOVERY MEMORANDA FOR ZOOM
DISCOVERY HEARING REGARDING SCOPE OF PRIVILEGE ASSERTED BY
DEFENDANT PURSUANT TO BANK SECRECY ACT AND RELATED PROVISIONS**

For the discovery hearing via Zoom set by the Court and duly noticed for **January 31, 2025 at 2:30 p.m.**, Plaintiffs and Defendant hereby jointly move for leave to file discovery memoranda with Plaintiffs' initial filing, not to exceed five (5) pages in length, due no later than January 10, 2024; Defendant's response, not to exceed seven (7) pages in length, due no later than January 17, 2024; and Plaintiffs' reply to Defendant response, not to exceed three (3) pages in length, due no later than January 22, 2024.

As previously stated in the Notice of Hearing, the parties dispute the scope of the privilege asserted by Defendant Wells Fargo Bank, N.A. ("Wells Fargo"), to the extent certain of Plaintiff's Requests for Production seek documents and information that Wells Fargo asserts it is "legally prohibited from disclosing, acknowledging or admitting the existence of under the Bank Secrecy Act and related provisions." Plaintiffs have already provided the Court and served all parties via email with source materials related to this discovery dispute, including, without limitation, the

applicable Plaintiffs' discovery requests and Defendant's responses and objections thereto; emails memorializing the parties' meet and confer discussions; and Defendant's privilege log with respect to the categories of materials at issue.

Both Plaintiffs and Defendant believe that this discovery dispute is particularly complex given varied determinations in numerous cases within and outside this District in applying the Suspicious Activity Report ("SAR") privilege, which pertains to certain reporting requirements imposed on financial institutions by federal law. While the parties agree that a SAR itself and documents that would disclose the existence of that SAR fall under the applicable privilege, the parties disagree and recognize there is substantial complexity concerning which evaluative or investigatory materials would disclose the existence of a particular SAR. *E.g., compare Li v. Walsh*, Civ. No. 16-81871 LEAD CASE, Civ. No. 19-80332, 2020 WL 5887443 (S.D. Fla. Oct. 5, 2020) *with Wiand v. Wells Fargo Bank, N.A.*, 981 F. Supp.2d 1214 (M.D. Fla. 2013), *reconsideration denied*, 2013 WL 12157564 (M.D. Fla. Dec. 11, 2013). Accordingly, the parties jointly request leave to brief the Court to aid its analysis of this particularly complex issue prior to the Court's January 31, 2025 scheduled hearing.

Dated: December 31, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 31, 2024, a copy of the foregoing was furnished by E-Mail to:

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