

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.

**WELLS FARGO’S PARTIALLY UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE OBJECTION AND FOR ADDITIONAL
PAGES TO RESPOND TO REPORT AND RECOMMENDATIONS**

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), by and through its undersigned counsel, moves this Court for an extension of time for the Parties, through and including February 18, 2025, and for additional pages to object to Chief United States Magistrate Judge Jonathan Goodman’s Report and Recommendations (the “Report”). As grounds therefore, Wells Fargo states as follows:

1. On January 15, 2025, Magistrate Judge Goodman issued his Report providing recommendations to this Court on Motions to Dismiss regarding both *Millstein, et al. v. Wells Fargo Bank, N.A.*, No. 1:24-cv-22142-DPG (S.D. Fla.) (the “Investor Action”), and *Sterner, et al. v. Wells Fargo Bank, N.A.*, No. 9:24-cv-80722-DPG (S.D. Fla.) (the “Receiver Action”), (collectively, the Actions”). (ECF No. 53).

2. On January 21, 2025, the Court granted Wells Fargo’s Unopposed Motion for Extension of Time to Object and File a Consolidated Objection in Excess of Page Limit to the Report. (ECF No. 56). Accordingly, Wells Fargo was permitted to file one consolidated objection

to the Report (the “Objections”) with a limitation of 40 pages. *Id.* The Objections were also not to exceed 20 pages as to *argument* specific to either case, and the deadline to file the Objections was set for February 12, 2025. *Id.*

3. As such, Wells Fargo diligently drafted its consolidated Objections in accordance with the page limitation in preparation to file on the February 12, 2025 deadline. This included efficiencies associated with certain portions of the brief that covered issues in both cases such as factual background, while keeping arguments specific to either case within the 20 page limits.

4. However, on February 11, 2025 at 9:45 P.M., the night before the Objections are currently due, the Receiver filed a Notice of Voluntary Dismissal, dismissing the Receiver Action. ECF No. 66. Consequently, the Report’s recommendations regarding the Receiver Action became effectively moot, leaving Wells Fargo with just over 24 hours to significantly alter its Objections to address only the remaining issues in the Investor Action.

A. Wells Fargo Seeks an Extension of Time

5. As such, Wells Fargo seeks a short extension of time, up to and including February 18, 2025, i.e., three business days, for all Parties to file their respective responses to the Report. Wells Fargo also requests that the deadline to respond to the objections be commensurately extended from March 12, 2025, to March 18, 2025.

6. Rule 6(b) of the Federal Rules of Civil Procedure provides that this Court may enlarge the time for filing a response upon a showing of good cause.

7. Where, as here, the request for extension is made prior to the expiration of the specified period of time, no finding of excusable neglect is required. Fed. R. Civ. P. 6(b)(1)(A).

8. This request is not made for the purposes of undue delay but is made in good faith and in the interest of the judicial economy and efficiency, and it is only necessitated by the Receiver's 11th hour dismissal of his claims.

9. Wells Fargo respectfully submits that good cause has been shown for an extension of time in light of the recent dismissal of the Receiver Action, which requires significant alterations to Wells Fargo's Objections.

B. Wells Fargo Seeks to Confirm Its Page Limit

10. To the extent not already extended by this Court's prior order (ECF No. 56), Wells Fargo also requests a short extension of its page limit by 10 pages to 30 pages, over Plaintiffs' objection. Specifically, while the Court previously ruled that argument specific to Plaintiffs be limited to 20 pages, Wells Fargo understood that overlapping facts could be addressed outside of those 20 pages, but within the overall 40 pages, for efficiency.

11. Simply put, Wells Fargo is in need of additional pages in which to meaningfully address the 75-page Report at issue. ECF No. 53 (including introduction (pp. 1-6), procedural background as to Plaintiffs (p.10), factual allegations as to Plaintiffs (pp. 11-24), standard of review (pp. 26-29), aiding and abetting claims related to both complaints (pp. 41-48), aiding and abetting as to Plaintiffs (pp. 52-62), unjust enrichment as to both complaints (pp. 69-73), conclusions (pp. 73-74).

12. Moreover, the limited extension sought, 3 business days over a court holiday, further highlights the challenge of trimming the otherwise finalized brief. Even significant alterations to remove arguments regarding the Receiver Action would not allow Wells Fargo to reduce the page count of its Objections by half in a timely manner.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1.A.3

Pursuant to Local Rule 7.1.A.3, the undersigned counsel certifies that counsel for Wells Fargo has conferred with counsel for Plaintiffs, who consents to the extension of time but not the page limit extension requested in the Motion.

WHEREFORE, for the foregoing reasons, Defendant Wells Fargo Bank, N.A. respectfully requests that this Court grant this Motion and (i) extend the time for all Parties to object to the Report, up to and including February 18, 2025, (ii) extend the time for all Parties to respond to objections, up to and including March 18, 2025, and (iii) grant leave for Wells Fargo to exceed the previously set page limit in which it shall file its objections to the Report not to exceed thirty (30) pages.

Dated: February 12, 2025

Respectfully submitted,

MCGUIREWOODS LLP

Emily Y. Rottmann

Emily Y. Rottmann
Florida Bar No. 93154
erottmann@mcguirewoods.com
clambert@mcguirewoods.com
flservice@mcguirewoods.com
50 N. Laura Street, Suite 3300
Jacksonville, Florida 32202
Tel: (904) 798-3200
Fax: (904) 798-3207

Jarrod D. Shaw (admitted *pro hac vice*)
jshaw@mcguirewoods.com
Nellie E. Hestin (admitted *pro hac vice*)
nhestin@mcguirewoods.com
Tower Two-Sixty
260 Forbes Avenue, Suite 1800
Pittsburgh, PA 15222
Tel: (412) 667-6000

Mark W. Kinghorn (admitted *pro hac vice*)
mkinghorn@mcguirewoods.com
Zachary L. McCamey (admitted *pro hac vice*)
zmccamey@mcguirewoods.com
William O. L. Hutchinson (admitted *pro hac vice*)
whutchinson@mcguirewoods.com
201 N. Tryon St., Suite 3000
Charlotte, NC 28202-2146
Tel: (704) 343-2000

Attorneys for Defendant Wells Fargo Bank, N.A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 12, 2025, a true copy of the foregoing was filed with the Court using the CM/ECF system, which will send notice to counsel of record:

Seth Miles, Esq.
David M. Buckner, Esq.
Brett E. von Borke, Esq.
BUCKNER + MILES
2020 Salzedo Street, Ste. 302
Coral Gables, Florida 33134
seth@bucknermiles.com
david@bucknermiles.com
vonborke@bucknermiles.com
escobio@bucknermiles.com

James D. Sallah, Esq.
Joshua A Katz, Esq.
SALLAH ASTARITA & COX, LLC
One Boca Place
2255 Glades Rd., Ste. 300E
Boca Raton, FL 33431
jds@sallahlaw.com
jak@sallahlaw.com

Scott L. Silver, Esq.
Ryan A. Schwamm, Esq.
Peter M. Spett, Esq.
SILVER LAW GROUP
11780 W. Sample Road
Coral Springs, FL 33065
ssilver@silverlaw.com
rschwamm@silverlaw.com
pspett@silverlaw.com

Attorneys for Plaintiffs and the Class

Emily Y. Rottmann
Emily Y. Rottmann