

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

CASE NO. 24-22142-CIV-GAYLES/GOODMAN

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

Plaintiffs,

**v.
WELLS FARGO BANK, N.A.,**

Defendant.

**PLAINTIFFS' UNOPPOSED MOTION FOR ADDITIONAL PAGES TO RESPOND TO
WELLS FARGO'S OBJECTIONS TO REPORT AND RECOMMENDATION**

Plaintiffs Fanny Millstein and Martin Kleinbart hereby move for an additional ten (10) pages to respond to Defendant Wells Fargo Bank, N.A.'s Objections to the Report and Recommendation of the Magistrate Judge on Defendant's Motion to Dismiss ("Objections") [D.E. 81]. Wells Fargo moved for and was granted an additional ten (10) pages beyond what is permitted by the Local Rules to object to Judge Goodman's Report and Recommendations on its Motion to Dismiss, for a total of thirty pages (30). Wells Fargo's Objections contain, among other things, a detailed recitation of purported facts upon which it bases a series of discrete arguments. Therefore, Plaintiffs request a reciprocal additional ten (10) pages to effectively address all of those arguments.

BACKGROUND

This putative class action to recover losses sustained by victims of a Ponzi scheme was consolidated for discovery purposes with the related matter *Stermer et al v. Wells Fargo Bank, N.A.*, Case No. 24-cv-80722 ("*Stermer*"). Defendant Wells Fargo filed motions to dismiss in both cases. On January 15, 2025, Judge Goodman entered a 75-page consolidated Report and

Recommendations on Motions to Dismiss Related Lawsuits (“R & R”), which addressed the motions to dismiss filed in both cases. D.E. 53. In the R & R, Judge Goodman recommends that Wells Fargo’s Motion to Dismiss Plaintiffs’ First Amended Class Action Complaint (“Motion to Dismiss the FAC”) in this case be denied. Plaintiffs, the Receiver in *Stermer*, and Defendant Wells Fargo then negotiated and agreed to a briefing schedule and page limitations for Defendant’s consolidated objections to the R & R, which was approved by the Court. D.E. 55.

Wells Fargo’s consolidated objections were due on, February 12, 2025. D.E. 55. On February 11, 2025, the Receiver voluntarily dismissed the *Stermer* action. *See* Case No. 24-80722. D.E. 66. Wells Fargo therefore asked for an additional extension of time to revise its objections, and for an additional ten (10) pages for its objections to the recommendation that its Motion to Dismiss the FAC be denied. D.E. 76. On February 12, 2025, this Court granted Wells Fargo’s request for additional time to file its objections, as well as its request for additional pages, granting Wells Fargo up to thirty (30) pages for its Objections. D.E. 78.

On February 18, 2025, Wells Fargo filed its Objections. D.E. 81. The Objections contain a detailed statement of purported “relevant allegations” that Wells Fargo incorporates into an argument section that is broken down under thirteen (13) different headings, including all of their subparts. Plaintiffs therefore require a reciprocal grant of ten (10) additional pages, for a total of thirty (30) pages, to effectively respond to all of Wells Fargo’s arguments.

ARGUMENT

It is well settled that a district court has broad “discretion to control its docket.” *Moses H. Cone Memorial Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 21 n. 23 (1983); *see also Equity Lifestyle Properties, Inc. v. Florida Mowing and Landscape Serv., Inc.*, 556 F.3d 1232, 1240 (11th Cir. 2009) (a “district court has inherent authority to manage its own docket”). This discretion

includes the authority to enlarge the number of pages for a response and its memorandum of law. *See Scheer v. City of Miami*, 15 F. Supp. 2d 1338,1345 (S.D. Fla. 1998) (granting motions to enlarge page limitations for memoranda of law); *Eastman Kodak Co. v. Calvin*, 978 F. Supp. 1078, 1095 (S.D. Fla. 1997) (same). Further, “there is a strong policy of determining cases on their merits,” *In re Worldwide Web Sys., Inc.*, 328 F.3d 1291, 1295 (11th Cir. 2003), and “[t]he onus is upon the parties to formulate arguments.” *Tymar Distribution LLC v. Mitchell Group USA, LLC*, 558 F. Supp. 3d 1275, 1289 n.7 (S.D. Fla. 2021). Here, due to the voluminous nature of Wells Fargo’s Objections and the multitude of subcategories of arguments it raised, Plaintiffs require a reciprocal grant of an additional ten (10) pages to respond, for a total of thirty (30) pages.

CONCLUSION

Based on the foregoing, Plaintiffs respectfully request this Court grant them leave to file a response to Wells Fargo’s Objections up to thirty (30) pages in length.

CERTIFICATE OF CONFERRAL

Pursuant to Local Rule 7.1(a)(3)(A), I hereby certify that counsel for the movant has conferred with all parties who may be affected by the relief sought in this motion in a good faith effort to resolve the issues and no opposition exists.

Dated: March 12, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by CM/ECF on March 12, 2025, on all counsel or parties of record on the Service List below.

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MIAMI AND WEST PALM BEACH DIVISIONS**

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FANNY B. MILLSTEIN and
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WELLS FARGO BANK, N.A.,

Defendant.

**[PROPOSED] ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION FOR
ADDITIONAL PAGES TO RESPOND TO WELLS FARGO'S OBJECTIONS TO
REPORT AND RECOMMENDATION**

THIS CAUSE having come before the Court on Plaintiffs' Unopposed Motion for Additional Pages to Respond to Wells Fargo's Objections to Report and Recommendation. D.E. ___, it is hereby

ORDERED AND ADJUDGED that:

The Motion is GRANTED.

Plaintiffs are granted leave to file a response to Wells Fargo's Objections not to exceed thirty (30) pages in length.

DONE AND ORDERED in Chambers at Miami, Florida, this ____ day of March, 2025.

Honorable Judge Darrin P. Gayles

Copies furnished to: All Counsel of Record