

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 1:24-cv-22142-GAYLES/GOODMAN

FANNY B. MILLSTEIN and
MARTIN KLEINBART,

Plaintiffs,

v.

WELLS FARGO BANK, N.A.,

Defendant.

_____ /

**JOINT MOTION FOR EXTENSION OF TIME TO FILE AMENDED
ANSWER AND AFFIRMATIVE DEFENSES/TO FILE MOTION TO STRIKE**

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) and Plaintiffs Fanny Millstein and Martin Kleinbart’s (“Plaintiffs”), by and through their undersigned counsel, jointly move for an extension of time through May 9, 2025, for Wells Fargo to file an amended Answer and Affirmative Defenses to the Amended Complaint and for Plaintiffs to file a Motion to Strike Wells Fargo’s as-filed Answer and Affirmative Defenses, if necessary. As grounds, Wells Fargo states that:

1. Wells Fargo files its Answer and Affirmative Defenses to the Amended Complaint on April 14, 2025 (“Answer and Affirmative Defenses”). D.E. 98.

2. Pursuant to Fed. R. Civ. P. 15(a)(1), “[a] party may amend its pleading once as a matter of course no later than: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. Wells Fargo’s deadline to amend its Answer and Affirmative Defenses is May 5, 2025.

3. Pursuant to Fed. R. Civ. P. 12(f)(2) “[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:(1) on its own; or (2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading. Thus, Plaintiffs’ deadline to move to strike Wells Fargo’s Answer and Affirmative Defenses is also May 5, 2025.

4. Following the filing of Wells Fargo’s Answer and Affirmative Defenses, the Parties have had meet and confer communications on Plaintiffs’ concerns with the defenses in an effort to avoid motions practice and conserve judicial resources.

5. To that end, Wells Fargo anticipates amending its Answer and Affirmative Defenses pursuant to those conferrals on or before May 9, 2025.

6. Thus, the Parties seek a limited extension through May 9, 2025, in order to preserve their respective abilities to (i) file an amended Answer and Affirmative Defenses without leave of court (Wells Fargo); and (ii) seek relief related to Wells Fargo’s operative pleading pursuant to Rule 12(f), if necessary (Plaintiffs).

7. This request is not made for the purposes of undue delay but is made in good faith and in the interest of judicial economy and efficiency.

MEMORANDUM OF LAW

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. 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). The Parties respectfully submit that good cause has been shown for an extension of time in order to allow the Parties to continue to confer regarding

Wells Fargo's Answer and Affirmative Defenses and to allow Wells Fargo additional time to prepare an amended Answer and Affirmative Defenses pursuant to such conferrals.

WHEREFORE, for the foregoing reasons, Defendant Wells Fargo Bank, N.A. and Plaintiffs Fanny Millstein and Martin Kleinbart, respectfully request that this Court grant this Motion and extend the time for Wells Fargo to file an amended Answer and Affirmative Defenses to the Amended Complaint and for Plaintiffs to file a Motion to Strike Wells Fargo's as-filed Answer and Affirmative Defenses, up to and including May 9, 2025, and such other and further relief as this Court deems just and proper.

Respectfully submitted on May 5, 2025.

SALLAH ASTARITA & COX, LLC

/s/ Joshua A. Katz (with permission)

James D. Sallah, Esq.
Florida Bar No. 0092584
Joshua A Katz, Esq.
Florida Bar No. 0848301
One Boca Place
2255 Glades Rd., Ste. 300E
Boca Raton, FL 33431
jds@sallahlaw.com
jak@sallahlaw.com

Seth Miles, Esq.
Florida Bar No. 385530
David M. Buckner, Esq.
Florida Bar No. 60550
Brett E. von Borke, Esq.
Florida Bar No. 0044802
BUCKNER + MILES
2020 Salzedo Street, Ste. 302
Coral Gables, FL 33134
seth@bucknermiles.com
david@bucknermiles.com
vonborke@bucknermiles.com
escobio@bucknermiles.com

Scott L. Silver, Esq.
Florida Bar No. 095631
Ryan A. Schwamm, Esq.
Florida Bar No. 1019116
Peter M. Spett, Esq.
Florida Bar No. 0088840
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

MCGUIREWOODS LLP

/s/ 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

Jarrold 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 May 5, 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.

/s/ Emily Y. Rottmann
Attorney

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Defendant.

**ORDER GRANTING JOINT MOTION FOR EXTENSION OF TIME TO FILE
AMENDED ANSWER AND AFFIRMATIVE DEFENSES/TO FILE MOTION TO STRIKE**

THIS CAUSE having come before the Court on the Parties' Joint Motion for Extension of Time to File Amended Answer and Affirmative Defenses/to File Motion to Strike, it is

ORDERED AND ADJUDGED that:

The Motion is GRANTED. Defendant Wells Fargo Bank, N.A. shall have up to and including May 9, 2025, in which it may file an Amended Answer and Affirmative Defenses to Plaintiffs' Amended Complaint. Plaintiffs Fanny Millstein and Martin Kleinbart's respective deadline to file a Motion to Strike to Wells Fargo's operative pleading is also extended to May 9, 2025.

DONE AND ORDERED in Chambers at Miami, Florida, this _____ day of May, 2025.

Honorable Judge Darrin P. Gayles
UNITED STATES DISTRICT COURT JUDGE

Copies furnished to: All Counsel of Record