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

CASE NO. 24-22142-CIV-GAYLES/SHAW-WILDER

FANNY B. MILLSTEIN and
MARTIN KLEINBART,

Plaintiffs,
v.

WELLS FARGO BANK, N.A.,

Defendant.
_____/

PLAINTIFF'S DISCOVERY MEMORANDUM IN REPLY TO WELLS FARGO'S OPPOSITION TO PLAINTIFF'S DISCOVERY MEMORANDUM AS TO ITS REQUEST FOR TRANSACTION-MONITORING ALERTS AND RULES, PARAMETERS, AND ALGORITHMS GOVERNING ALERTS

WF admits that whether transactional activity "alerted" is relevant because it bears directly on "what knowledge that established on the part of Wells Fargo." D.E. 185 at 3. Yet WF contends Plaintiff may not test its claim that it retained and produced all responsive alerts, even in the face of expert testimony establishing the production is deficient. That position is internally inconsistent and squarely contrary to Rule 26, which permits discovery to evaluate the existence, custody, and completeness of responsive materials. *In re Takata Airbag Prods. Liab. Litig.*, 2017 WL 8812734, at *5 (S.D. Fla. July 5, 2017); *Lee v. Graco, Inc.*, 2024 WL 5266750, at *2 (S.D. Fla. Nov. 4, 2024).

Judges Goodman and Gayles concluded that, if WF "knowingly violated its own KYC policies" and "acknowledged these compliance violations," that conduct amounted to more than "merely overlooking red flags" and could establish WF "had actual knowledge of the wrongdoing." D.E. 53 at 58-59. WF's assertion that a bank has no duty to investigate suspicious activity, D.E. 185 at 2, therefore misses the mark. Plaintiff's claims do not sound in negligence or a failure to adhere to regulatory standards. Rather, Plaintiff's theory is that the "[f]acts surrounding [WF]'s maintenance of anti-money laundering and monitoring systems…also provides circumstantial evidence of actual knowledge." *Pearson v. Deutsche Bank AG*, 2022 WL 951316, at *8 (S.D. Fla. Mar. 30, 2022) (collecting cases).

WF's assertion that few alerts were generated necessarily depends on the rules, parameters, thresholds, filtering logic, and retention practices as to the monitoring systems in place during the relevant period. K. Agle Supp. Decl. ¶3. Without that information, Plaintiff cannot evaluate the plausibility or completeness of WF's claim. *Id.* Although models and thresholds may evolve, it is standard practice for financial institutions to maintain system records and change logs sufficient to understand how transactional activity was flagged, escalated, and reviewed. *Id.* ¶4. WF's declarants instead offer only generalized assertions that historical logic was overwritten, without quantifying burden, explaining the absence of governance or validation materials, or addressing how WF can meaningfully certify alert completeness without reference to the rules and retention practices that governed them. *In re Zurn Pex Prds. Liab. Litig*., 2009 WL 1606653, at *2 (D. Minn. June 5, 2009) (affidavit from a non-expert on document search and retrieval is not compelling); *Eastwood Enterprises, LLC v. Farha*, 2010 WL 11508180, at *5 (M.D. Fla. Apr. 26, 2010).

WF cannot shield its alert production from scrutiny while conceding its relevance to the knowledge inquiry, and Rule 26 entitles Plaintiff to discovery sufficient to evaluate whether alerts were generated, retained, and produced—or affected by configuration or retention practices.

Dated: January 14, 2026

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 January 14, 2026, on all counsel or parties of record on the Service List below.

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EXHIBIT 1

SUPPLEMENTAL DECLARATION OF KENNETH P. AGLE

(To be filed under seal pursuant to the Court's Order D.E. 181)

PLAINTIFF'S DISCOVERY MEMORANDUM IN REPLY TO WELLS FARGO'S OPPOSITION TO PLAINTIFF'S DISCOVERY MEMORANDUM AS TO ITS REQUEST FOR TRANSACTION-MONITORING ALERTS AND RULES, PARAMETERS, AND ALGORITHMS GOVERNING ALERTS

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