

**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 RESPONSE IN OPPOSITION TO DEFENDANT'S REQUEST FOR A
PROTECTIVE ORDER TO PREVENT PLAINTIFF FROM DISCOVERING THE
FACTS SUPPORTING DEFENDANT'S AFFIRMATIVE DEFENSES**

Both Judge Goodman and this Court have ruled Plaintiff is entitled to discover the facts supporting WF's affirmative defenses because that is the law. And this Court ordered WF to produce individual class member account agreements WF raises as an affirmative defense against those members. Yet WF now resists a 30(b)(6) deposition for facts in support of its affirmative defenses against Plaintiff and the class members, and against certification itself. WF cannot show good cause for a protective order from that discovery request, because Plaintiff is entitled to it.

Judge Gayles has set one discovery deadline and has set the deadline for class certification before summary judgment. D.E. 205. Initially, Plaintiff moved to strike many of WF's affirmative defenses as insufficiently pled because they lacked factual bases. D.E. 112, 122. WF responded that those factual bases would be developed through discovery. *See, e.g.* D.E. 120 at 6-9, 11, 16-17. Judge Goodman agreed, noting throughout his order denying the motion to strike that Plaintiff could seek such discovery. D.E. 133 at 9-10, 14-16, 18, 20, 23-24, 27, 30. WF nevertheless resisted discovery of class member account agreements on the basis that the class had not yet been certified. *See* D.E. 162, 173. Plaintiff thus moved to compel, and this Court ordered the agreements produced because, among other things, they "are relevant to [WF]'s affirmative defenses." D.E. 177.

The parties then attempted to resolve by stipulation Plaintiff's request for a 30(b)(6) deposition regarding WF's affirmative defenses, which include defenses to class certification based on alleged individualized factual issues among class members. D.E. 106 at 58-59. WF nevertheless refused to provide the factual bases for its defenses to certification on the basis that they are purportedly "predicated on what [WF] see[s] when Plaintiff files her motion for class certification." *Emails re: Meet and Confer on Defendant's Witness List*, Ex. 1, 3/20/26. And the stipulation WF proposed made only vague reference to Plaintiff's discovery responses and deposition testimony, while also purporting to encompass defenses against individual class members. D.E. 212-1. Because WF's proposal thus did not provide Plaintiff with the facts to which she is entitled, Plaintiff exercised her right to develop them through the 30(b)(6). *Emails re: Affirmative defense 30(b)(6)*, Ex. 2, 4/7/26. Plaintiff proposed limiting the deposition to herself if WF would stipulate it only has facts regarding Plaintiff in support of its defenses, but WF refused any resolution that would limit any arguments it "ha[s] or will develop" in response to Plaintiff's motion for class certification, or any defenses it "may have" as to individual class members "should a class be certified." Ex. 3, 4/7/26-4/8/26. WF now seeks to limit Plaintiff to a stipulation to which she never agreed, without even paying lip service to the standard it knows it cannot meet.

Plaintiff is entitled to discover the factual bases for WF's affirmative defenses. *Basulto v. Netflix, Inc.*, 2023 WL 3197655, at *2 (S.D. Fla. May 2, 2023) ("Netflix has asserted affirmative defenses...Plaintiffs are entitled to discovery about the facts which supposedly support them..."). Plaintiff respectfully believes they should have been stricken, but Judge Goodman agreed with WF and the courts holding that a plaintiff can learn their factual bases through discovery. D.E. 133 at 9-10 (collecting cases), 14-16, 18, 20, 23-24, 27, 30. Having convinced the Court of that position, WF cannot now resist that very discovery (to which Plaintiff is entitled, regardless). *See Transamerica Leasing, Inc. v. Inst. of London Underwriters*, 430 F.3d 1326, 1335 (11th Cir. 2005) (Judicial estoppel prevents parties from taking inconsistent positions in different proceedings).

Further, Plaintiff is entitled to probe WF's defenses in a 30(b)(6) deposition. *Basulto*, 2023 WL 3197655, at *17-18 (conditionally granting motion to compel further 30(b)(6) deposition for facts supporting affirmative defenses and denials); *Addison Constr. Corp. v. Nationwide Mut. Fire Ins. Co.*, 2020 WL 2513102, at *2 (S.D. Fla. May 15, 2020) (denying motion for protective order because "Nationwide cannot assert...affirmative defenses and then refuse to permit its 30(b)(6) corporate representative to testify at a deposition."). WF's suggestion that Plaintiff should be limited to the barebones assertions WF proposed during negotiations (which simply mirrored its defenses and shed no light on their factual bases) has no legal basis. *See Garcia v. Murcia Group, Inc.*, 2019 WL 13155900, at *2 (S.D. Fla. Aug. 5, 2019) (party seeking discovery is not required to take opponent's "word for it" on disputed issues). Rather, WF carries the burden "of showing good cause why a protective order is necessary." *New World Network Ltd. v. M/V NORWEGIAN SEA*, 2007 WL 1068124, at *5 (S.D. Fla. Apr. 6, 2007). Indeed, WF ignores that courts in this district typically will not issue preemptive protective orders in advance of a 30(b)(6) deposition because "that would provide a corporate deponent a procedural benefit that no other deponent has." *Id.*, citing *King v. Pratt & Whitney, a Div. of United Techs. Corp.*, 161 F.R.D. 475, 476 (S.D. Fla. 1995), *aff'd sub nom. King v. Pratt & Whitney*, 213 F.3d 646-47 (11th Cir. 2000); *see also Berntheizel v. Safeco Ins. Co. of Illinois*, 2023 WL 11806293, at *1 (S.D. Fla. Nov. 28, 2023); *Kaplan v. Nautilus Ins. Co.*, 2018 WL 6445886, at *1 (S.D. Fla. Sept. 17, 2018). WF's 30(b)(6) overbreadth cases are thus inapposite. *Fuentes v. Classica Cruise Operator Ltd., Inc.*, 2020 WL 6270956, at *3 (S.D. Fla. Sept. 10, 2020) (ruling on post-deposition motion for sanctions); *Dacruz v. Bank of Am., N.A.*, 2010 WL 11496940, at *1 (N.D. Ga. July 28, 2010) (relying on other circuits); *Darnell v. Georgia Power Co.*, 2005 WL 8244685, at *6 (N.D. Ga. Sept. 13, 2005) (same).

Plaintiff is also entitled to discover the factual bases supporting WF's affirmative defenses against individual class members and against certification itself. *Medina v. Enhanced Recovery Co., LLC*, 2017 WL 5196093, at *1 (S.D. Fla. Nov. 9, 2017) (holding that class member discovery tied to the defendant's affirmative defense is discoverable because it is relevant both to the factual basis of the defense and to class certification itself); *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 n.13 (1978) (approving discovery to develop issues "under Rule 23, such as numerosity, common questions, and adequacy of representation"). WF's claim that "it does not possess all of the facts for absent class members," Mot. at 2, does not allow it to withhold those it does have. See *Barnes v. AT & T Pension Ben. Plan-Nonbargained Program*, 718 F. Supp. 2d 1167, 1173 (N.D. Cal. 2010) (granting motion to strike with leave to amend if defendant becomes aware of facts supporting "affirmative defenses pertaining to class members, provided that defendant exercises diligence in determining such facts"). WF's authority confirms that absent class member discovery is disfavored because, among other things, defendants have information from other sources. *Mata v. Expedia Group Inc.*, 2026 WL 267797, at *4 (S.D. Fla. Jan. 6, 2026) (sustaining objections to Rule 45 subpoena because defendant was in possession of information from other sources and thus could not make showing of particularized need for absent class member discovery).

WF's authorities regarding bar orders and one-way intervention have nothing to do with Plaintiff's entitlement to class member discovery. See *Smith v. Bayer Corp.*, 564 U.S. 299 (2011) (putative class members in suit that was not certified were not bound by the judgment); *Licari Family Chiropractic Inc. v. Eclinical Works, LLC*, 2019 WL 2491922, at *1 (M.D. Fla. Feb. 26, 2019) (class certification should be decided before merits to prevent one-way intervention). There is no authority for WF's assertion that pre-certification discovery somehow implicates one-way intervention or improperly "assume[s] the existence of a certified class." Mot. at 2. Judge Gayles has set the deadline for class certification before summary judgment and "has not bifurcated the class certification discovery period and merits discovery period." *Eisenband v. Starion Energy, Inc.*, 2017 WL 4685266, at *1 (S.D. Fla. Oct. 17, 2017) (granting plaintiff's motion to compel class member discovery over defendant's objection that request was improper prior to certification). "In essence, Defendant is arguing that Plaintiff must prove [she] is entitled to class certification before she is entitled to discovery regarding class certification. That is not, and has never been, required." *Brotz v. Simm Associates, Inc.*, 2018 WL 7269700, at *7 (M.D. Fla. May 8, 2018).

Plaintiff is entitled to the discovery and WF cannot show good cause for a protective order.

Dated this 8th day of May, 2026.

Respectfully submitted,

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Counsel for Plaintiffs and the Class

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by CM/ECF on May 8, 2026, on all counsel or parties of record on the Service List below.

/s/Seth Miles

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EXHIBIT 1

Amelie Escobio

From: Shaw, Jarrod D. <JShaw@mcguirewoods.com>
Sent: Friday, March 20, 2026 11:40 AM
To: Brett E Von Borke; Rottmann, Emily Y.
Cc: Lambert, Cathie M.; Seth Miles; David M. Buckner; Amelie Escobio; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan; flservice; Hestin, Nellie E.; Cuffe, E. Paul; Olshan, Eric G.; Griset, Jill Crawley
Subject: RE: WF: Meet and Confer on Defendant's Witness List
Attachments: Draft - Millstein Stipulation re Affirmative Defenses(218192612.10).docx

Brett,

Attached is the draft stipulation on WF's affirmative defenses we discussed. Note, we did not include defense 25 as that is predicated on what we see when Plaintiff files her motion for class certification. As a result, we do not think it is appropriate at this time to address this issue and would object to any corporate designee deposition on that defense specifically.

Please let us know if you would like to discuss. We need final sign off from Wells on this and figured we wanted to provide it now while it's in near final form from our perspective to keep the various issues moving forward.

Jarrold

Jarrold D. Shaw

Partner

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From: Brett E Von Borke <vonborke@bucknermiles.com>
Sent: Thursday, March 19, 2026 5:02 PM
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Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>
Subject: RE: WF: Meet and Confer on Defendant's Witness List

****EXTERNAL EMAIL; use caution with links and attachments****

Thank you.

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From: Shaw, Jarrod D. <JShaw@mcguirewoods.com>
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Subject: RE: WF: Meet and Confer on Defendant's Witness List

With file this time.

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Sent: Thursday, March 19, 2026 12:24 PM
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Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>
Subject: RE: WF: Meet and Confer on Defendant's Witness List

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Hi Emily,

Thank you for the update.

Please let us know when we can reschedule Mr. Brehm's 30(b)(6) deposition on the Securities Intermediary topics. Also, please confirm the location of the Telios deposition on April 7 so we can arrange travel.

We are available to proceed with the FCI 30(b)(6) witness on Topics 13 and 15 on April 15 in Charlotte.

As we have not yet seen a draft stipulation regarding the affirmative defenses, please provide dates for a 30(b)(6) deposition on Topic 30. If we are able to reach agreement on the stipulation, we can cancel that deposition.

Finally, we understand OFR produced documents to you on Monday. Please produce those documents to us immediately so we can review them in advance of the upcoming depositions.

Many thanks.

Regards,

Brett

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From: Rottmann, Emily Y. <erottmann@mcguirewoods.com>

Sent: Wednesday, March 18, 2026 5:32 PM

To: Brett E Von Borke <vonborke@bucknermiles.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

Brett:

See below in response to the inquiries.

Stipulations

We are reviewing the edits to the stipulation as to Topic 29 with the client, and I expect that we will be back to you tomorrow on that. In light of the Court's order, we are working through updates to the Topic 30 stipulation. As to the corporate trust related fees, as noted, Mr. Brehm will be prepared to discuss that topic.

Additional 30(b)(6) Depositions

1. We have Charles Brehm designated to cover the corporate trust topics consistent with my email of last week. We are working on rescheduled dates for Mr. Brehm.
2. Anick Thomas is designated to cover Topics 25-27 as understood in our objections served yesterday.
3. The FCI witness set for April 9th is designated for Topics 17-19, 20 (as to banking), 22.
4. Our final witness to discuss KYC/CDD topics is available in Charlotte. Does April 15th work for his deposition? We anticipate he would cover Topics 13 and 15.
5. We are still confirming whether the FCI witness or KYC/CDD witness will be addressing Topic 16, and we will circle back shortly on that piece.
6. We believe the remaining topics were already covered or are being addressed by stipulation, but please let us know if there are any others we need to discuss.

Coyman and Kutner

As you likely saw, Mr. Kutner has indicated he will plead the 5th, and we have canceled his deposition. Mr. Coyman was served, and we have not heard anything further from him. As such, we intend to proceed with his deposition as scheduled.

Thank you,
Emily Rottmann

Emily Y. Rottmann

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From: Brett E Von Borke <vonborke@bucknermiles.com>
Sent: Wednesday, March 18, 2026 2:35 PM
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Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>
Subject: RE: WF: Meet and Confer on Defendant's Witness List

****EXTERNAL EMAIL; use caution with links and attachments****

Hi Emily, Jarrod, and Nellie,

Following up on the balance on my 3/13 email.

Many thanks.

Regards,

Brett

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From: Rottmann, Emily Y. <erottmann@mcguirewoods.com>
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Subject: RE: WF: Meet and Confer on Defendant's Witness List

Brett:

We'll circle back to you on the remainder, but I wanted to go ahead and get back to you on Charles Brehm's deposition since it is on Tuesday. We have the list he has been designated for as follows per Nellie's February 13th email:

1-2 (as it relates to CTS)
3-11
14
20 (as it relates to CTS)
23 (as it relates to CTS)
28 (as it relates to CTS)
32

Thank you,
Emily

Emily Y. Rottmann

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From: Brett E Von Borke <vonborke@bucknermiles.com>

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Subject: RE: WF: Meet and Confer on Defendant's Witness List

****EXTERNAL EMAIL; use caution with links and attachments****

Hi Emily, Jarrod, and Nellie,

I wanted to follow up on our 30(b)(6) and discovery discussions.

First, please find attached a draft of the revised stipulation for 30(b)(6) Topic 29 based on our meet and confer discussion last week. We tried to take your comments into account. Please let us know if you have any edits or comments to the proposed stipulation.

Second, we are still waiting on stipulations from Wells Fargo on the following 30(b)(6) topics: (1) fees collected for services rendered as Trustee, Securities Intermediary, and Depository Bank (Topic 28); and (2) Wells Fargo's affirmative defenses (Topic 30).

As for the remaining 30(b)(6) depositions, this is my understanding of what has been scheduled:

1. Securities Intermediary – 3/17 – Topics 8–11, 14
2. 30(b)(6) – 3/23 – Topics 25–27
3. FCI 30(b)(6) – 4/9 – Topics 15–19, 22, 23

If my understand on these is incorrect, please let me know as soon as possible.

Also, please let me know the dates and witnesses for the following 30(b)(6) topics: 1–7, 12–13, 20–21, 24, 28 (resolution through possible stipulation), 29 (resolution through possible stipulation), 30 (resolution through possible stipulation), and 31–32. If you want to designate prior deposition testimony on certain subjects please let us know so we can memorialize that agreement.

Please let us know if the depositions of Mr. Kutner and Mr. Coyman are going forward as noticed.

Finally, please let me know if any of the above is incorrect or if you would like to meet and confer on these issues.

Many thanks.

Regards,

Brett

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From: Rottmann, Emily Y. <erottmann@mcguirewoods.com>

Sent: Friday, March 6, 2026 9:30 AM

To: Brett E Von Borke <vonborke@bucknermiles.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspelt@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

Good morning Brett:

We've got a few updates on dates, and we have a few additional witnesses we are planning to withdraw, so we are hoping this will streamline significantly from here:

Witnesses to Withdraw

- James Yakovakis – We understand you are withdrawing, and we will not proceed with his deposition based on that.
- Ann Dukart – We will withdraw Ms. Dukart from our witness list.
- Peter Favorite – We will also withdraw Mr. Favorite from our witness list.

Dates

- FCI Corporate Representative – Our FCI corporate representative will be available in the DC area on April 1, April 7-9. We can host in our DC offices if that is helpful.
- DZ Bank – It looks like DZ Bank's corporate representative will be available in New York on April 14. If you can confirm your availability, we will work on firming that up.

Service Updates

We were able to serve Mr. Coyman and Mr. Kutner. We have not heard from either, but our plan is to proceed with those depositions as noticed. Based on his declaration and plans to plead the fifth, we have canceled Mr. Sussman's deposition.

Thank you,
Emily

Emily Y. Rottmann

Partner

McGuireWoods LLP

T: +1 904 798 3224

erottmann@mcguirewoods.com

From: Brett E Von Borke <vonborke@bucknermiles.com>

Sent: Wednesday, March 4, 2026 7:12 AM

To: Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

****EXTERNAL EMAIL; use caution with links and attachments****

Hi Emily, Jarrod, and Nellie,

After Mr. Hodge's testimony yesterday, Plaintiff agrees to withdraw Mr. Yakoovakis from her witness list if Wells Fargo agrees not to depose him or call him at trial. Please let us know if that proposal is acceptable.

Please also let us know Wells Fargo's position regarding Ms. Dukart and Mr. Favorite. If Wells Fargo will not agree to withdraw them, please provide available deposition dates.

Please also advise whether you have dates for Teleios, Mr. Finemel, and the Bank of Utah. In addition, please let us know whether service has been obtained on Mr. Coyman and/or Mr. Kutner and whether those depositions will be going forward. Also, please kindly confirm that Mr. Sussman's deposition will not be going forward.

Finally, please provide deposition dates for Wells Fargo's remaining Rule 30(b)(6) witnesses.

Many thanks.

Regards,

Brett

[Brett E. von Borke, Esq.](mailto:erottmann@mcguirewoods.com)

[Buckner + Miles](mailto:erottmann@mcguirewoods.com)

[2020 Salzedo Street | Suite 302](mailto:erottmann@mcguirewoods.com)

[Coral Gables | Florida | 33134](mailto:erottmann@mcguirewoods.com)

[Direct 786.523.0483 | 786.523.0480](mailto:erottmann@mcguirewoods.com)

[vonborke@bucknermiles.com](mailto:erottmann@mcguirewoods.com)

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From: Brett E Von Borke

Sent: Thursday, February 26, 2026 1:42 PM

To: Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

Thank you, Emily.

We also wanted to let you know that we reached out again to Mr. Yakovakis, but we were unable to connect with him and he has not returned our calls. Given the additional time, if Wells Fargo decides to subpoena him, we would request that the deposition be scheduled for sometime in April.

Many thanks.

Regards,

Brett

Brett E. von Borke, Esq.
Buckner + Miles
2020 Salzedo Street | Suite 302
Coral Gables | Florida | 33134
Direct 786.523.0483 | 786.523.0480
vonborke@bucknermiles.com

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From: Rottmann, Emily Y. <erottmann@mcguirewoods.com>

Sent: Thursday, February 26, 2026 1:36 PM

To: Brett E Von Borke <vonborke@bucknermiles.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>;

flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

Brett:

The witnesses are as follows:

- 3/17 Charles Brehm
- 3/23 Anick Thomas

Thank you,
Emily Rottmann

Emily Y. Rottmann

Partner
McGuireWoods LLP
T: +1 904 798 3224
erottmann@mcguirewoods.com

From: Brett E Von Borke <vonborke@bucknermiles.com>

Sent: Tuesday, February 24, 2026 5:19 PM

To: Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

****EXTERNAL EMAIL; use caution with links and attachments****

Hi Emily,

Would you also please let us know the names of the two 30(b)(6) witnesses scheduled to be deposed on 3/17 and 3/23?

Many thanks.

Regards,

Brett

Brett E. von Borke, Esq.
Buckner + Miles
2020 Salzedo Street | Suite 302
Coral Gables | Florida | 33134
Direct 786.523.0483 | 786.523.0480
vonborke@bucknermiles.com

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From: Brett E Von Borke

Sent: Tuesday, February 24, 2026 4:17 PM

To: Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

Hi Emily,

Thank you for your email. We will provide an updated subpoena for Mr. Orendorf shortly.

March 23 works for WF's corporate representative's deposition. Would you like us to check Mr. Sallah's office for availability, or would you prefer that we secure a location in West Palm Beach?

We have reached out to Mr. Yakovakis to discuss dates but have not yet heard back. March 19 does not work for us. Could we schedule his deposition for March 27 instead?

Many thanks.

Regards,

Brett

Brett E. von Borke, Esq.

Buckner + Miles

2020 Salzedo Street | Suite 302

Coral Gables | Florida | 33134

Direct 786.523.0483 | 786.523.0480

vonborke@bucknermiles.com

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From: Rottmann, Emily Y. <erottmann@mcguirewoods.com>

Sent: Tuesday, February 24, 2026 3:49 PM

To: Brett E Von Borke <vonborke@bucknermiles.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

Brett:

March 10th works for Mr. Orendorf. Can you send over an updated subpoena when you get a second?

As we continue to work through corporate representative topics, does March 23rd in West Palm Beach work for your side for the witness on Topics 25-27?

Thank you,
Emily Rottmann

Emily Y. Rottmann

Partner
McGuireWoods LLP
T: +1 904 798 3224
erottmann@mcguirewoods.com

From: Brett E Von Borke <vonborke@bucknermiles.com>

Sent: Monday, February 23, 2026 4:13 PM

To: Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

****EXTERNAL EMAIL; use caution with links and attachments****

Hi Jarrod,

We will confirm whether March 19 works and will let you know shortly.

With respect to Mr. Orendorf's deposition, does Tuesday, March 10, work for you and the witness?

Because Wells Fargo has included them on its witness list and has not yet withdrawn them, please provide available dates and locations for Ms. Dukart, Mr. Favorite, and the remaining 30(b)(6) witnesses. We would like to tentatively secure those dates, as time is short.

Please also advise once you have a date for Teleios LS Holdings, as well as your final position regarding Bank of Utah.

Many thanks.

Regards,

Brett

Brett E. von Borke, Esq.
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2020 Salzedo Street | Suite 302
Coral Gables | Florida | 33134
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vonborke@bucknermiles.com

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From: Shaw, Jarrod D. <JShaw@mcguirewoods.com>
Sent: Monday, February 23, 2026 3:10 PM
To: Brett E Von Borke <vonborke@bucknermiles.com>
Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>
Subject: RE: WF: Meet and Confer on Defendant's Witness List

Brett,

I just added notes below to make it easier for tracking. We would also like to go ahead and get Yakovakis on the calendar based on your inclusion of him on your witness list. Would March 19th work, and we'll get a subpoena out to him?

1. Ann Dukart (Still considering)
2. Brian Skog (withdrawn)
3. Peter Favorite (still considering)

Please also confirm that Wells Fargo will withdraw the following individuals from its witness list: **(AGREED)**

1. Coral Gables Collateral Agency
2. Jeff Baxter, Esq.
3. Darrin Carlomango
4. Antonio Dicembino
5. Scott Fenad
6. Melody Behringer
7. Melody Wilder
8. Edward Kayne
9. Larry Saifman
10. Melissa Zamora

- 11. Paul Kapela
- 12. Jeff Abramson
- 13. Dan Tepper
- 14. Richard Donoff
- 15. Joey Paluzzi
- 16. Joseph Steck
- 17. Robin Taber
- 18. Morris, Manning & Martin LLP

Wells Fargo indicated it would advise whether it intends to proceed with the depositions of the following corporate representatives and individuals or intends to call them at trial:

- 1. Teleios LS Holdings IV DE **(Still working to schedule deposition)**
- 2. Justin Finemel **(Not withdrawing)**
- 3. Alecia Schwartz (Corporate Representative for Teleios) **(We are agreeable to withdrawing)**
- 4. Sean White (Corporate Representative for Lexserv) **(We do not plan to take their deposition but we do not agree to remove them from our list)**
- 5. Lisa Montero **(We can remove)**
- 6. Jayan Krishnan **(We do not plan to take his deposition but plan to leave on our list)**
- 7. Mehul Patel **(We can remove)**
- 8. Corporate Representative for Bank of Utah **(still deciding)**

Jarrold D. Shaw

Partner

McGuireWoods LLP

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jshaw@mcguirewoods.com

From: Brett E Von Borke <vonborke@bucknermiles.com>

Sent: Monday, February 23, 2026 2:52 PM

To: Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

****EXTERNAL EMAIL; use caution with links and attachments****

Hi Jarrod,

Since we have to reschedule Orendorf, do you have an update on the WF or third-parties depo dates below?

Many thanks.

Regards,

Brett

Brett E. von Borke, Esq.
Buckner + Miles
2020 Salzedo Street | Suite 302
Coral Gables | Florida | 33134
Direct 786.523.0483 | 786.523.0480
vonborke@bucknermiles.com

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From: Brett E Von Borke

Sent: Wednesday, February 18, 2026 3:55 PM

To: Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: WF: Meet and Confer on Defendant's Witness List

Hi Jarrod and Emily,

Thank you for meeting and conferring with us today regarding the parties' witness lists.

Plaintiff's preference would be to reach an agreement that if Wells Fargo agrees not to call one of the remaining (that is, not previously deposed) witnesses at trial, Plaintiff will not depose that witness or call them at trial.

Please provide deposition dates for the following Wells Fargo employees:

1. Ann Dukart
2. Brian Skog
3. Peter Favorite

Please also confirm that Wells Fargo will withdraw the following individuals from its witness list:

1. Coral Gables Collateral Agency
2. Jeff Baxter, Esq.
3. Darrin Carlomango
4. Antonio Dicembino
5. Scott Fenad
6. Melody Behringer
7. Melody Wilder
8. Edward Kayne
9. Larry Saifman
10. Melissa Zamora

11. Paul Kapela
12. Jeff Abramson
13. Dan Tepper
14. Richard Donoff
15. Joey Paluzzi
16. Joseph Steck
17. Robin Taber
18. Morris, Manning & Martin LLP

Wells Fargo indicated it would advise whether it intends to proceed with the depositions of the following corporate representatives and individuals or intends to call them at trial:

1. Teleios LS Holdings IV DE
2. Justin Finemel
3. Alecia Schwartz (Corporate Representative for Teleios)
4. Sean White (Corporate Representative for Lexserve)
5. Lisa Montero
6. Jayan Krishnan
7. Mehul Patel
8. Corporate Representative for Bank of Utah

Please also produce the declaration Mr. Seeman provided to Wells Fargo.

With respect to Plaintiff's witness list, Plaintiff does not have an affidavit from Mr. Yakovakis. We will let you know whether we will call him at trial after we complete the deposition of Alan Hodge, or whether we will agree not to call him if Wells Fargo does not.

Plaintiff is also in discussions with AlphaStaff regarding production of additional documents. Depending on that production, Plaintiff may be willing to make a similar agreement as to AlphaStaff and will advise once production is finalized. We will of course provide you copies of that production.

Please let me know if anything above is inaccurate or requires clarification.

Regards,

Brett

Brett E. von Borke, Esq.
Buckner + Miles
2020 Salzedo Street | Suite 302
Coral Gables | Florida | 33134
Direct 786.523.0483 | 786.523.0480
vonborke@bucknermiles.com

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From: Shaw, Jarrod D. <JShaw@mcguirewoods.com>
Sent: Friday, February 13, 2026 5:16 PM
To: Brett E Von Borke <vonborke@bucknermiles.com>
Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>
Subject: Re: WF: Meet and Confer on Defendant's Witness List

That's works. Have a good weekend.

On Feb 13, 2026, at 5:13 PM, Brett E Von Borke <vonborke@bucknermiles.com> wrote:

****EXTERNAL EMAIL; use caution with links and attachments****

Agreed; does Wednesday at 3 pm work for you?

Many thanks.

Regards,

Brett

Brett E. von Borke, Esq.
Buckner + Miles
2020 Salzedo Street | Suite 302
Coral Gables | Florida | 33134
Direct 786.523.0483 | 786.523.0480
vonborke@bucknermiles.com

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From: Shaw, Jarrod D. <JShaw@mcguirewoods.com>
Sent: Friday, February 13, 2026 5:09 PM
To: Brett E Von Borke <vonborke@bucknermiles.com>
Cc: Lambert, Cathie M. <clambert@mcguirewoods.com>; Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com; Maha Adnan <madnan@bucknermiles.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G.

<eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: Re: WF: Meet and Confer on Defendant's Witness List

Brett,

I think that makes sense for both sides.

Provide some times next week that work for your side.

Jarrold

On Feb 13, 2026, at 5:06 PM, Brett E Von Borke <vonborke@bucknermiles.com> wrote:

****EXTERNAL EMAIL; use caution with links and attachments****

Hi Jarrod and Emily,

Please let me know your availability to meet and confer regarding Defendant's witness list. As we enter the final stretch of fact discovery, I would like to avoid taking unnecessary depositions by reaching an agreement on who is realistically expected to testify at trial.

I look forward to discussing.

Many thanks.

Regards,

Brett

Brett E. von Borke, Esq.
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From: Lambert, Cathie M. <clambert@mcguirewoods.com>

Sent: Friday, February 13, 2026 8:24 AM

To: Seth Miles <seth@bucknermiles.com>; David M. Buckner <david@bucknermiles.com>; Brett E Von Borke <vonborke@bucknermiles.com>;

Amelie Escobio <escobio@bucknermiles.com>; jds@sallahlaw.com; jak@sallahlaw.com; ssilver@silverlaw.com; rschwamm@silverlaw.com; pspett@silverlaw.com
Cc: Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Griset, Jill Crawley <JGriset@mcguirewoods.com>

Subject: RE: SERVICE OF COURT DOCUMENT (DISCOVERY); CASE NO. 1:24-cv-22142

It has come to my attention that the attachment did not come through. Please accept my apologies. I have attached it here.

Cathie M. Lambert

Practice Assistant
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clambert@mcguirewoods.com

From: Lambert, Cathie M.
Sent: Thursday, February 12, 2026 5:00 PM
To: 'seth@bucknermiles.com' <seth@bucknermiles.com>; 'David@bucknermiles.com' <David@bucknermiles.com>; 'vonborke@bucknermiles.com' <vonborke@bucknermiles.com>; 'escobio@bucknermiles.com' <escobio@bucknermiles.com>; 'jds@sallahlaw.com' <jds@sallahlaw.com>; 'jak@sallahlaw.com' <jak@sallahlaw.com>; 'ssilver@silverlaw.com' <ssilver@silverlaw.com>; 'rschwamm@silverlaw.com' <rschwamm@silverlaw.com>; 'pspett@silverlaw.com' <pspett@silverlaw.com>
Cc: Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>; flservice <flservice@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Cuffe, E. Paul <pcuffe@mcguirewoods.com>; Olshan, Eric G. <EOlshan@mcguirewoods.com>; 'jgriset@mcguirewoods.com' <jgriset@mcguirewoods.com>
Subject: SERVICE OF COURT DOCUMENT (DISCOVERY); CASE NO. 1:24-cv-22142

Court Identity:	USDC, Southern District of Florida, Miami Division
Case No.	1:24-cv-22142-DPG
Initial parties - Plaintiff(s):	Fanny B. Millstein and Martin Kleinbart
Initial parties – Defendant(s):	Wells Fargo Bank, N.A.
Document being served:	1. Defendant’s Preliminary Witness List
Sender’s name:	Emily Y. Rottmann
Sender’s phone number:	904-798-3200

Cathie M. Lambert
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<~WRD0004.jpg>

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EXHIBIT 2

Amelie Escobio

From: Rottmann, Emily Y. <erottmann@mcguirewoods.com>
Sent: Monday, April 13, 2026 8:55 AM
To: David M. Buckner; Shaw, Jarrod D.
Cc: Hestin, Nellie E.; Olshan, Eric G.; Brett E Von Borke; Amelie Escobio
Subject: RE: Affirmative defense 30(b)(6)

Thank you.

Emily Y. Rottmann

Partner
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T: +1 904 798 3224
erottmann@mcguirewoods.com

From: David M. Buckner <david@bucknermiles.com>
Sent: Monday, April 13, 2026 8:52 AM
To: Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>
Cc: Hestin, Nellie E. <NHestin@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Brett E Von Borke <vonborke@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>
Subject: RE: Affirmative defense 30(b)(6)

****EXTERNAL EMAIL; use caution with links and attachments****

Yes.

David M. Buckner, Esq.
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From: Rottmann, Emily Y. <erottmann@mcguirewoods.com>
Sent: Monday, April 13, 2026 8:51 AM
To: David M. Buckner <david@bucknermiles.com>; Shaw, Jarrod D. <JShaw@mcguirewoods.com>
Cc: Hestin, Nellie E. <NHestin@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Brett E Von Borke <vonborke@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>
Subject: RE: Affirmative defense 30(b)(6)

David:

The Court apparently had some times fill up. Does 10:30 or 11 on May 14th work for you?

Emily

Emily Y. Rottmann

Partner

McGuireWoods LLP

T: +1 904 798 3224

erottmann@mcguirewoods.com

From: David M. Buckner <david@bucknermiles.com>

Sent: Thursday, April 9, 2026 10:11 PM

To: Shaw, Jarrod D. <JShaw@mcguirewoods.com>

Cc: Hestin, Nellie E. <NHestin@mcguirewoods.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>; Brett E Von Borke <vonborke@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>

Subject: Re: Affirmative defense 30(b)(6)

****EXTERNAL EMAIL; use caution with links and attachments****

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On Apr 8, 2026, at 1:42 PM, Shaw, Jarrod D. <JShaw@mcguirewoods.com> wrote:

David,

I'm not sure why you are referencing the stipulation's reference to the putative class. This is the first you are raising that language and we will agree to remove it from the stipulation if the stipulation is otherwise agreeable as to Millstein. To be clear, though, we will not agree to any limitations to any class arguments we have or will develop in response to your class certification

motion, or defenses that we may have as to absent class members should a class be certified. We disagree that discovery about individual members of the putative class (which has not been certified) and having to proffer specific facts regarding defenses that may apply to each individual person you claim is a class member is required or proper. That is why Wells is not permitted to pursue absent class member discovery, which you acknowledge.

At this point, if you won't agree to the stipulation specific to Millstein with us removing the putative class language and you continue to believe that plaintiffs are entitled to seek testimony about specific facts applicable to individual absent class members, we think the parties are at an impasse. We will seek a protective order, and the Court has May 13 (3:30) and 14 (1:30) available for a hearing.

Please let us know what works and we will notify the Court.

Jarrold

Jarrold D. Shaw

Partner

McGuireWoods LLP

T: +1 412 667 7907 | M: +1 412 298 1514

jshaw@mcguirewoods.com

From: David M. Buckner <david@bucknermiles.com>

Sent: Tuesday, April 7, 2026 7:07 PM

To: Shaw, Jarrod D. <JShaw@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>

Cc: Brett E Von Borke <vonborke@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>

Subject: RE: Affirmative defense 30(b)(6)

****EXTERNAL EMAIL; use caution with links and attachments****

Jarrold,

Your stipulation makes reference to "Plaintiff and the putative class" throughout. Thus, we are entitled to know what facts supporting its defenses Wells Fargo has with regard to the Plaintiff individually and the class as a whole. If, as you've noted, Wells Fargo only has facts regarding the Plaintiff as it relates to its affirmative defenses, we are prepared to limit the deposition to the Plaintiff in reliance on that representation, to which we and you would stipulate.

David

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david@bucknermiles.com

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From: Shaw, Jarrod D. <JShaw@mcguirewoods.com>
Sent: Tuesday, April 7, 2026 1:36 PM
To: David M. Buckner <david@bucknermiles.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>
Cc: Brett E Von Borke <vonborke@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>
Subject: RE: Affirmative defense 30(b)(6)

David,

Thank you for your email. While we appreciate your position, we need to understand if this is specific to Millstein or broader and applicable to the class and your position that you are entitled to class specific discovery. That will help us to understand your position and allow us to respond accordingly.

Jarrold

Jarrold D. Shaw

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jshaw@mcguirewoods.com

From: David M. Buckner <david@bucknermiles.com>
Sent: Tuesday, April 7, 2026 12:34 PM
To: Shaw, Jarrod D. <JShaw@mcguirewoods.com>; Hestin, Nellie E. <NHestin@mcguirewoods.com>; Rottmann, Emily Y. <erottmann@mcguirewoods.com>; Olshan, Eric G. <eolshan@mcguirewoods.com>
Cc: Brett E Von Borke <vonborke@bucknermiles.com>; Amelie Escobio <escobio@bucknermiles.com>
Subject: Affirmative defense 30(b)(6)

****EXTERNAL EMAIL; use caution with links and attachments****

All,

We gave considerable thought to your proposed stipulation with regard to Wells Fargo's affirmative defenses. We even made an effort to rewrite them in a way that would work. However, we just cannot come up with something that works because we do not have whatever facts you all are relying on for these defenses. So we are going to need to take the deposition. We can work on a date later in April, and ask the Court to extend the schedule just for that deposition. Please let us know when your witness is available. Thanks.

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