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

CASE NOS.: 1:24-cv-22142-GAYLES/SHAW-WILDER

FANNY B. MILLSTEIN and
MARTIN KLEINBART,

Plaintiffs,

v.

WELLS FARGO BANK, N.A.,

Defendant.
_____/

THE PARTIES' JOINT MOTION TO MODIFY SCHEDULING ORDER

Plaintiff, Fanny B. Millstein, on behalf of herself and all others similarly situated, and Defendant, Wells Fargo Bank, N.A., jointly move to modify the Court's Third Amended Scheduling Order [D.E. 205] to allow for a brief extension of the trial date and remaining pretrial deadlines. The parties have diligently advanced this case and have successfully completed several major milestones in the proceedings of this putative class action. However, given the complexity of the matter and the magnitude of the discovery completed, the parties agree that the current schedule for the remaining deadlines is no longer workable and a brief enlargement is necessary.

BACKGROUND

This is a putative class action to recover purported losses sustained by the victims of a Ponzi scheme that Plaintiff alleges Defendant aided and abetted. The scheme involved the sale of certain promissory notes purportedly secured by life insurance policies. Plaintiff's claims relate to Defendant's conduct, and Defendant disputes that Plaintiff has a valid claim.

Pursuant to the Court's Third Amened Scheduling Order, the matter is set for trial during the Court's two-week trial calendar beginning on Monday, March 22, 2027. [D.E. 205]. The

remaining pretrial deadlines are: a) November 9, 2026 (dispositive motions, including motions for summary judgment and *Daubert* motions); b) December 11, 2027 (all pretrial motions and memoranda of law, including motions *in limine*); and, c) February 5, 2027 (joint pretrial stipulation, proposed jury instructions, and proposed verdict form).

Discovery in the case has been extensive. The parties have successfully conducted the depositions of over twenty (20) fact witnesses, resulting in thousands of pages of testimony with hundreds of exhibits. Millions of pages of documents have been produced by the parties, the Receiver in a related action, the Florida Office of Financial Regulation, and in response to dozens of subpoenas issued to third parties. In addition, the parties deposed five (5) expert witnesses and three (3) rebuttal experts who were geographically dispersed throughout the country.

Plaintiff filed her Motion for Class Certification on September 18, 2026, in accordance with the Court's Third Amended Scheduling Order. [D.E. 225]. That motion is set for an evidentiary hearing before the Honorable Detra Shaw-Wilder on November 17, 2026. [D.E. 226].

Given that the parties will not have the Court's order on class certification in time to prepare dispositive motions or for trial, the parties agree the remaining pretrial deadlines and trial date are not workable. Accordingly, the parties respectfully request additional time to submit dispositive motions, as well as a brief enlargement of times allotted by this Court's Local Rules for their respective responses and replies to those motions. In addition, because of the number of experts and corresponding *Daubert* motions that may have to be briefed, the parties agree it is not workable to require filing of all of their *Daubert* motions on the same date as their dispositive motions, and respectfully request that deadline be staggered as set forth herein. Finally, the parties agree that they will require additional time to prepare for trial and attempt to streamline issues once they

receive rulings from the Court, and therefore request the remaining deadlines be enlarged and the trial date continued.

MEMORANDUM OF LAW

District courts have "broad discretion over the management of pre-trial activities, including discovery and scheduling." *Johnson v. Bd. of Regents of Univ. of Georgia*, 263 F.3d 1234, 1269 (11th Cir. 2001). Accordingly, "[t]he determination as to whether or not parties should be held to pretrial orders is a matter for the discretion of district court judges." *Sadowski v. Bombardier Ltd.*, 539 F.2d 615, 621 (7th Cir. 1976) (citation omitted). A district court "clearly has the discretion to extend or modify deadlines within a case management and scheduling order to enlarge the discovery period." *Gadsby v. Am. Golf Corp. of California*, 2012 WL 2368568, at *1 (M.D. Fla. June 21, 2012). Modifications are permitted under Federal Rule of Civil Procedure 16(b)(4) upon a showing of "good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4).

Rule 16's "good cause" standard allows modification where "the schedule cannot 'be met despite the diligence of the party seeking the extension.'" *Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418 (11th Cir. 1998) (quoting Fed. R. Civ. P. 16 advisory committee's note to 1983 amendment). This flexible approach is necessary because "the scheduling order is entered early in the litigation . . . . Otherwise, a fear that extensions will not be granted may encourage counsel to request the longest possible periods for completing pleading, joinder, and discovery." Fed. R. Civ. P. 16 advisory committee's note to 1983 amendment.

Here, despite the parties' diligent efforts, the deadlines in the Court's Third Amended Scheduling Order cannot be met. The parties have worked cooperatively to successfully complete extensive fact and expert discovery and to meet the Court's deadline for Plaintiff's Motion for Class Certification, a major milestone. The remaining deadlines, in particular the deadline for

dispositive motions and *Daubert* motions, will similarly require extensive efforts by the parties, but also will key off the Court's order on class certification. The deadlines in the current schedule are thus not feasible, even with continued diligence. Therefore, good cause exists to modify the current schedule. *See Sosa*, 133 F.3d at 1418. Moreover, no party will be prejudiced by the requested extension, and it will give the Court the time it needs to consider and rule on the motion for class certification and the parties' motions for summary judgment.

The parties therefore request that this matter be reset for trial during the Court's two-week trial calendar beginning on **Monday, September 20, 2027, at 9:30 a.m.**, with a telephonic calendar call to be held at **9:30 a.m. on Wednesday, September 15, 2027**, and that the Court order the parties to adhere to the following schedule:

1.	Dispositive motions shall be filed by	**02/26/2027**
2.	Responses to dispositive motions shall be filed by	**03/26/2027**
3.	Replies in further support of dispositive motions shall be filed by	**04/16/2027**
4.	*Daubert* motions shall be filed by	**04/30/2027**
5.	All pretrial motions and memoranda of law, including motions *in limine*, shall be filed by	**06/25/2027**
6.	Joint pretrial stipulation, proposed joint jury instructions, proposed joint verdict form, and/or proposed findings of fact and conclusions of law shall be filed by	**08/06/2027**

CONCLUSION

WHEREFORE, based on the foregoing, the parties respectfully request that this Court grant this Joint Motion to Modify Scheduling Order and enter a Fourth Amended Scheduling Order as set forth above.

Dated this 1st day of October, 2026.

Respectfully submitted,

Buckner + Miles
2020 Salzedo Street, Ste. 302
Coral Gables, Florida 33134
Tel.: (305) 964-8003
Fax: (786) 523-0585

/s/Seth Miles
Seth Miles, Esq.
Fla. Bar No. 385530
seth@bucknermiles.com
David M. Buckner, Esq.
Fla. Bar No. 60550
david@bucknermiles.com
Brett E. von Borke, Esq.
Fla. Bar No. 0044802
vonborke@bucknermiles.com

Sallah Astarita & Cox, LLC
One Boca Place
2255 Glades Rd., Ste. 300E
Boca Raton, FL 33431
Tel.: (561) 989-9080
Fax: (561) 989-9020

James D. Sallah, Esq.
Fla. Bar No. 0092584
jds@sallahlaw.com
Joshua A Katz, Esq.
Fla. Bar No. 0848301
jak@sallahlaw.com

Silver Law Group
11780 W. Sample Road
Coral Springs, FL 33065
Tel.: (954) 755-4799
Fax: (954) 755-4684

Scott L. Silver, Esq.
Fla. bar No. 095631
ssilver@silverlaw.com
Ryan A. Schwamm, Esq.
Fla. Bar No. 1019116
rschwamm@silverlaw.com
Peter M. Spett, Esq., Of Counsel
Fla. Bar No. 0088840
pspett@silverlaw.com

Counsel for Plaintiffs and the Class

McGUIREWOODS LLP
50 N. Laura Street, Suite 3300
Jacksonville, Florida 32202
Tel.: (904) 798-3200
Fax: (904) 798-3207

/s/ Emily Y. Rottmann
Emily Y. Rottmann, Esq.
Florida Bar No. 0093154
erottmann@mcguirewoods.com
E. Paul Cuffe, Esq.
Florida Bar No. 1018521
pcuffe@mcguirewoods.com
clambert@mcguirewoods.com

Jarrod Shaw, Esq. (*admitted pro hac vice*)
Mark W. Kinghorn, Esq. (*admitted pro hac vice*)
Nellie Hestin, Esq. (*admitted pro hac vice*)
Eric G. Olshan, Esq. (*admitted pro hac vice*)
McGuireWoods LLP
Tower Two-Sixty
260 Forbes Avenue, Suite 1800
Pittsburgh, Pennsylvania 15222
Tel. (412) 667-6000
jshaw@mcguirewoods.com
mkinghorn@mcguirewoods.com
nhestin@mcguirewoods.com
eolshan@mcguirewoods.com

William O. L. Hutchinson (*admitted pro hac vice*)
Zachary L. McCamey (*admitted pro hac vice*)
McGuire Woods, LLP
201 North Tryon Street, Suite 3000
Charlotte, North Carolina 28202
Tel.: (704) 343-2000
whutchinson@mcguirewoods.com
zmccamey@mcguirewoods.com

Attorneys for Defendant Wells Fargo Bank, N.A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 1, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

/s/ Seth Miles
Seth Miles, Esq., FBN 385530
seth@bucknermiles.com

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[PROPOSED] FOURTH AMENDED SCHEDULING ORDER

THIS CAUSE is set for trial during the Court's two-week trial calendar beginning on **Monday, September 20, 2027 in Courtroom 11-1 of the Wilkie D. Ferguson, Jr. United States Courthouse located at 400 North Miami Avenue, Miami, Florida 33128**, with a telephonic **Calendar Call** be held at **9:30 a.m. on Wednesday, September 15, 2027.**

The parties shall adhere to the following schedule:

1.	Dispositive motions shall be filed by	**02/26/2027**
2.	Responses to dispositive motions shall be filed by	**03/26/2027**
3.	Replies in further support of dispositive motions shall be filed by	**04/16/2027**
4.	*Daubert* motions shall be filed by	**04/30/2027**
5.	All pretrial motions and memoranda of law, including motions *in limine*, shall be filed by	**06/25/2027**
6.	Joint pretrial stipulation, proposed joint jury instructions, proposed joint verdict form, and/or proposed findings of fact and conclusions of law shall be filed by	**08/06/2027**

DONE AND ORDERED in Chambers at Miami, Florida, this ____ day of ___, 2026.

Honorable Darrin P. Gayles
United States District Judge

Copies furnished to: All Counsel of Record

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[PROPOSED] ORDER GRANTING THE PARTIES' JOINT MOTION TO MODIFY SCHEDULING ORDER

THIS CAUSE having come before the Court on the parties' Joint Motion to Modify Scheduling Order. D.E. ___.

It is hereby,

ORDERED AND ADJUDGED that:

The Motion is GRANTED. The Court will enter a Fourth Amended Scheduling Order by separate order.

DONE AND ORDERED in Chambers at Miami, Florida, this ____ day of ___, 2026.

Honorable Darrin P. Gayles
United States District Judge

Copies furnished to: All Counsel of Record