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

CASE NOS.: 1:24-cv-22142-DPG

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 for a limited modification of the Court's Third Amended Scheduling Order [D.E. 205] to allow for a brief, eleven-day extension of the deadline to complete expert discovery, up to and including September 15, 2026. The parties have diligently advanced this case, but given the volume of discovery and the number of experts to be deposed, the parties agree that a brief enlargement is necessary and respectfully request the Court to so order.

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. Since the outset of the litigation, the parties have cooperated to meaningfully advance the case. As a result, the parties have deposed over twenty fact witnesses and millions of pages of documents have been produced.

In accordance with the Court's Third Amended Scheduling Order, on July 1, 2026, and August 3, 2026, the parties made their expert witness and rebuttal expert witness disclosures,

respectively. Under that Order, all expert discovery must be completed by September 4, 2026. The parties have already agreed upon the dates and location for the depositions of their affirmative expert witnesses, which will occur primarily in the latter part of August. However, given the number of rebuttal experts that must also be deposed, the limited time remaining before the September 4, 2026, deadline for the close of expert discovery, and the locations of the experts throughout the country necessitating extensive travel, the parties require a brief, eleven-day enlargement of that deadline, up to and including September 15, 2026.

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).

Here, despite the parties' diligent efforts, the deadline for expert discovery in the Court's Third Amended Scheduling Order cannot be met due to the total number of experts that must be

deposed. Therefore, the brief, eleven-day enlargement of the deadline the parties request to complete expert discovery, up to and including September 15, 2026, is warranted.

CONCLUSION

WHEREFORE, based on the foregoing, the parties respectfully request that this Court grant this Joint Motion to Modify Scheduling Order and extend the deadline to complete expert discovery up to and including September 15, 2026.

Dated: August 7, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 7, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

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