

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(WEST PALM BEACH DIVISION)

CASE NO. 10-81612-CIV-HURLEY/HOPKINS

JONATHAN E. PERLMAN, Esq., as court
appointed Receiver of Creative Capital
Consortium, LLC, et al.,

Plaintiff,

v.

WELLS FARGO BANK, N.A, as
successor-in-interest to Wachovia Bank, N.A.,

Defendant.

_____/

**RECEIVER'S LIMITED OBJECTION TO DEFENDANT'S MOTION FOR
EXTENSION OF TRIAL DATE AND CASE MANAGEMENT DEADLINES**

Plaintiff, JONATHAN E. PERLMAN, ESQ., as court appointed Receiver for Creative Capital Consortium, LLC, et al. (the "Receivership Entities"), hereby files this Limited Objection to Defendant's Motion For Extension Of Trial Date And Case Management Deadlines and states as follows:

1. The Receiver and the Defendant agree that the trial date in this case should be extended to allow the parties sufficient time to conduct discovery and complete all necessary pretrial activity so that the parties may be fully prepared in the event of trial.

2. However, the Defendant's request to extend the trial date for 180 days is unwarranted in light of the pretrial progress to date, and will only result in needless delay. Instead, the Receiver requests that the trail date be extended for 60 days.

3. The initial pleadings in this case are complete, with the Defendant having filed its Answer and Affirmative Defenses on December 16, 2011. [DE 56.] Furthermore, although discovery in this case was stayed from July 19, 2011 until November 10, 2011, the Receiver has

proceeded diligently with discovery since the stay was vacated. On November 16, 2011, the Receiver served detailed document requests upon the Defendants, the responses to which are due January 18, 2012 by agreement. On December 8, 2011, the Receiver requested deposition dates during January of 2012 for four of the Defendant's material witnesses. The request was reiterated on December 19, 2011, and the Receiver awaits the Defendant's response.

4. Although the Receiver anticipates that a few more depositions may be necessary after the completion of initial four requested, a 60 day extension of the trial date should provide sufficient time for the Receiver to complete his depositions and any remaining fact discovery.

5. The Defendant has propounded interrogatories upon the Receiver, the responses to which are due on January 9, 2012, but has not noticed or requested any fact depositions, or otherwise embarked upon any other discovery. However, the Receiver stands ready to cooperate with the Defendant with respect to any further reasonable additional written discovery or deposition requests.

6. The Defendant does not state its anticipation of, or the need for, any unusual discovery which would warrant a six month extension of the trial date. Instead, the Defendant points to concerns raised by the Court regarding simultaneous litigation being undertaken by certain individual investors in the Theodule Ponzi scheme, and suggests or implies that an extension be granted so that that the progress of those cases may be tracked and analyzed in order to determine if those cases ought be allowed to proceed simultaneously with this one.¹

7. The Defendant's "wait and see" arguments really suggest that it is seeking a *stay* of this case opposed to a good faith extension of the trial date. This Court has already vacated the discovery stay previously imposed upon the parties in this case, and, at time the stay was

¹ The Defendant refers to the recent dismissal without prejudice of the case of *Nerline Horace-Manasse and all*

vacated, the Court was fully aware of the potential issues raised by the simultaneous cases filed by the Receiver and the investors.²

8. The Defendant raises no new arguments regarding why the efficient and orderly process of this case ought be further retarded. Furthermore, the Defendant provides no real reasons why an exorbitantly lengthy extension of the trial date ought be granted.

WHEREFORE, the Receiver requests that the Defendant's Motion For Extension Of Trial Date And Case Management Deadline (for 180 days) be denied, and that instead, the trial date (and corresponding pretrial deadlines) be extended by 60 days to facilitate complete discovery.

Respectfully submitted this 3rd day of January, 2012.

s/David P. Lemoie, Esq.

David P. Lemoie (FBN: 188311)

dlemoie@gjb-law.com

David C. Cimo (FBN: 775400)

dcimo@gjb-law.com

Carmen Contreras-Martinez (FBN: 093475)

Ccontreras@gjb-law.com

GENOVESE JOBLOVE & BATTISTA, P.A.

Miami Tower, 44th Floor

100 Southeast Second Street

Miami, Florida 33131

Phone: (305) 349-2300

Facsimile: (305) 349-2310

Attorneys for Receiver Jonathan E. Perlman, Esq.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on January 3, 2012, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF and is also being served on all counsel of record listed in the attached service list in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing.

By: s/David P. Lemoie, Esq.
David P. Lemoie

² The Defendant raised these issues in its Motion to Dismiss filed on April 21, 2011. [DE 23.]

SERVICE LIST

**Jonathan E. Perlman, Esq. v. Wells Fargo Bank, N.A.
Case No. 10-81612-CIV-HURLEY/HOPKINS
United States District Court Southern District of Florida**

David C. Cimo
dcimo@gjb-law.com
David P. Lemoie
dlemoie@gjb-law.com
Carmen Contreras-Martinez
ccontreras@gjb-law.com
Genovese Joblove & Battista, P.A.
Miami Tower, 44th Floor
100 Southeast 2nd Street
Miami, FL 33131
Telephone: (305) 349-2300
Facsimile: (305) 349-2310
*Attorneys for Plaintiff Jonathan E. Perlman, Esq.
as Court Appointed Receiver of Creative Capital
Consortium, LLC, et al.*
Served via CM/ECF

Michael R. Josephs
mrj@josephsjack.com
Josephs Jack P.A.
2699 South Bayshore Drive, 7th Floor
Miami, FL 33133
Telephone: (305) 445-3800
Facsimile: (305) 448-5800
*Co-Counsel for Plaintiff Jonathan E. Perlman, Esq.
as Court Appointed Receiver of Creative Capital
Consortium, LLC, et al.*
Served via CM/ECF

Amy S. Rubin
arubin@foxrothschild.com
Elliot Aaron Hallak
ehallak@foxrothschild.com
Fox Rothschild LLP
222 Lakeview Avenue, Suite 700
West Palm Beach, FL 33401
Telephone: (561) 835-9600
Facsimile: (561) 835-9602
Attorneys for Defendant Wells Fargo Bank, N.A.
Served via CM/ECF

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