

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

CASE NO. 9:10-CV-81612
(Ancillary Pro. No. 08-81565-CIV-Hurley/Hopkins)

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

Plaintiff,

vs.

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

Defendant.

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

Defendant, Wells Fargo Bank, N.A. as successor-in-interest to Wachovia Bank ("Wells Fargo"), hereby files this Reply to Jonathan E. Perlman, Esq.'s ("Perlman" or "Receiver") Limited Objection to Wells Fargo's Motion For Extension Of Trial Date And Case Management Deadlines (ECF No. 59)(the "Response"), and states as follows:

1. In light of the current posture of this case and the related investor action styled *Nerline Horace-Manasse, and all others similarly situated v. Wells Fargo Bank, N.A.*, Case No. 10-81623-Hurley/Hopkins (the "Horace-Manasse Action"), Wells Fargo's request for a one hundred and eighty (180) day extension of the trial date and pretrial deadlines is appropriate and the sixty (60) day extension proposed by the Receiver is insufficient.

2. As anticipated, on January 3, 2012, Nerline-Horace Manasse filed her First Amended Class Action Complaint (ECF No. 32) in the Horace-Manasse Action.

3. Wells Fargo will be filing a Motion to Dismiss the First Amended Class Action Complaint (ECF No. 32) in the Horace-Manasse Action, which will need to be fully briefed and ruled upon by the Court.

4. In light of the Court's statement in the Order on Motion to Dismiss (ECF No. 52, p.9) that "the Court will withhold a determination of how best to handle these concerns [regarding the claims brought by individual investors] until after the pleading stage, to the extent that any of the related actions proceed that far", it is clear that a one hundred and eighty (180) day extension of the trial date and pretrial deadlines is necessary so that the Court can address these issues and concerns.

5. Moreover, in his Response, the Receiver suggests that Wells Fargo has not been diligently conducting discovery and has represented to the Court that Wells Fargo has conducted no other discovery other than serving Interrogatories upon the Receiver.

6. That is simply not true. Since the discovery stay was lifted (and long before the Receiver's Response was filed), Wells Fargo served Interrogatories and an extensive Request for Production upon the Receiver and issued ten (10) non-party subpoenas in this case. Upon receipt and review of the responses to this discovery, Wells Fargo will conduct additional discovery, including taking the depositions of a number of persons identified by the Receiver in response to Wells Fargo's written discovery requests.

7. Despite suggesting that a sixty (60) day extension of the pretrial and trial deadlines is all that is necessary, the Receiver's counsel has acknowledged that it does not have sufficient resources to address the discovery in this case so that the parties can be ready for trial in early June 2012 (the date proposed by the Receiver).

8. Specifically, the Receiver's counsel has recently requested a significant extension of time to respond to Wells Fargo's discovery to accommodate other workload commitments, knowing that Wells Fargo will need to conduct additional discovery and depositions once those responses are received and reviewed.

9. In accordance with the professional courtesies that the parties have afforded to each other during the course of this action, Wells Fargo has agreed to the requested extension.

10. Based upon the foregoing, Wells Fargo believes that an extension of the trial date and case management deadlines of one-hundred eighty (180) days from the current deadlines is appropriate and that the Receiver's proposal of a sixty (60) day extension is insufficient to allow the parties and the Court sufficient time so that this action may be heard on the merits.

WHEREFORE, Wells Fargo Bank, N.A. respectfully requests entry of an order extending the trial date and case management deadlines 180 days from the current deadlines, and granting such other and further relief as is just and proper.

Dated: January 13, 2012.

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By: /s/ Elliot A. Hallak

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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on 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 electronically Notices of Electronic Filing.

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SERVICE LIST

*United States District Court
Southern District of Florida*

CASE NO: 10-CV-81612

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