

SUMMARY STATEMENT ON APPLICATION FOR EXPEDITED SERVICE AND/OR INTERIM RELIEF

(SUBMITTED BY MOVING PARTY)

Date: March 19, 2021

Case # 2020-02716

Title U.S. Bank Association, et al. , Petitioners

Index/Indict/Docket # 657387/2017

of

Matter Article 77 Proceeding for instructions

Appeal by Multiple Parties from Order Judgment of Decree Supreme Surrogate's Family

County New York

Court entered on 2/13/20, 20

Name of Judge Marcie Friedman, J.S.C.

Notice of Appeal filed on 3/16/20, 20

If from administrative determination, state agency

Nature of action or proceeding Article 77 Proceeding for instructions

Provisions of order judgment decree appealed from All

This application by appellant respondent is for two week adjournment (to 4/5/2021) of return date

If applying for a stay, state reason why requested not applicable

Has any undertaking been posted If "yes", state amount and type

Has application been made to court below for this relief No If "yes", state Disposition
Has there been any prior application here in this court Not applicable If "yes", state dates and nature

Counsel for non-party movant refused adjournment request.

Has adversary been advised of this application See above Does he/she consent

Attorney for Movant

Attorney for Opposition

Name Kleinberg, Kaplan, Wolff & Cohen, P.C.

Warner Partners, P.C.

Address 500 Fifth Avenue

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New York, NY 10022

Tel. No. 212-986-6000

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Appearing by Maya D. Cater, Esq.

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(Do not write below this line)

DISPOSITION

Justice

Date

Motion Date _____ Opposition _____ Reply _____

EXPEDITE _____ PHONE ATTORNEYS _____ DECISION BY _____

ALL PAPERS TO BE SERVED PERSONALLY.

Court Attorney

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT

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In the matter of the application of

WELLS FARGO BANK, NATIONAL ASSOCIATION,
et al.,

Petitioners,

For Judicial Instructions under CPLR Article 77 on the
Administration and Distribution of a Settlement Payment.

Appellate Div. No.
2020-02716

**ATTORNEY’S
AFFIRMATION IN
SUPPORT OF MOTION**

New York County Clerk’s
Index No. 657387/2017

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KENNETH E. WARNER, an attorney duly licensed to practice law in the State of New York, affirms under penalties of perjury and says:

1. I am a member of Warner Partners, P.C., attorneys for appellants/respondents the Institutional Investors in the instant appeal, which concerns the distribution method for a \$4.5 billion settlement of claims for several hundred Residential Mortgage Backed Securities (“RMBS”) trusts. A number of separate parties are involved in this appeal, either as appellants, respondents, or both.

2. On Saturday, March 13, 2021, Solula LLC, a non-party investor in some of the RMBS trusts at issue in this appeal, filed a motion for permission to submit an *amicus* brief in support of the legal arguments advocated by Nover Ventures LLC, a respondent in the appeal and one of the appearing investors below. The motion was corrected on March 16, 2021. Solula’s motion set a return date of Monday, March 22, 2021.

3. I submit this affirmation in support of our request for a two week adjournment of the return date of that motion (i.e., to April 5, 2021). This application is necessary because a request for an adjournment made to counsel for Solula was refused. It is my understanding that

other parties to this appeal requested an adjournment of the return date, but those requests were refused as well.

4. The case below was filed in Supreme Court, New York County, in December 2017, and this appeal followed several years of litigation below among investors and other interested parties concerning the proper distribution method for the settlement payment.

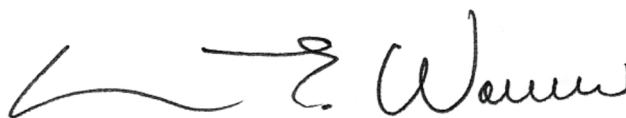
5. The requested adjournment will give us, and the attorneys working with our firm, time to review Solula's motion and respond appropriately. This week was difficult for that purpose because, in addition to shortness of time, out-of-town counsel working most directly on this matter with us is currently on Spring Break with his family and young children.

6. There are a number of litigants filing appeals in this matter and/or responding to them, which is why all of the litigants stipulated – subject to the Court's approval – to a three-part brief filing protocol that eliminated the need for cross-motions. The goal was to make the various arguments in this complex appeal maximally organized and logically presented to the Court for determination. Our motion for approval of that protocol by the Court is *sub judice*.

7. Consequently this appeal is in limbo, not yet calendared, and with no pending deadlines, which is important because as a consequence there is no prejudice whatsoever to Solula if our request for an adjournment of its motion is granted.

8. For the reasons set forth above, your affirmant respectfully requests that this application be granted.

Affirmed this 19th
day of March, 2021.

A handwritten signature in black ink, appearing to read "Kenneth E. Warner", written over a horizontal line.

Kenneth E. Warner