

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

-----X	:	Appellate Div. No.
	:	2020-02716
In the matter of the application of	:	
	:	New York County Clerk's
WELLS FARGO BANK, NATIONAL ASSOCIATION,	:	Index No. 657387/2017
et al.,	:	
Petitioners,	:	
	:	
For Judicial Instructions under CPLR Article 77 on the	:	
the Administration and Distribution of a Settlement Payment.:	:	
	:	
-----X	:	

**AFFIRMATION OF DAVID I. GREENBERGER IN SUPPORT OF THE
INSTITUTIONAL INVESTORS’ MOTION FOR AN EXTENSION OF TIME**

David I. Greenberger, an attorney admitted to practice in the State of New York, affirms as follows under penalty of perjury:

1. I am an attorney with the law firm of Bailey Duquette P.C., New York counsel to DW Partners LP (“DW”) and Ellington Management Group, L.L.C. (“Ellington”), and co-counsel with the law firm Perry, Johnson, Anderson, Miller and Moskowitz LLP, in the above captioned appeal. As such, I make this Affirmation based on personal knowledge.

2. DW and Ellington support, and join in, the March 19, 2021 application filed by the Institutional Investors’ counsel for a two week extension of time, to April 5, 2021, to respond to Solula, LLC’s (“Solula”) motion for permission to submit an *amicus* brief (the Institutional Investors’ application is at NYSCEF Doc. Nos. 95 and 96). Familiarity with the Institutional Investors’ application is assumed herein.

3. Like the Institutional Investors, DW and Ellington requested an extension of time directly from the Solula's counsel, but it was refused. (A true and correct copy of this correspondence is attached hereto as Exhibit A).

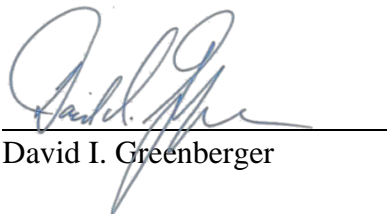
4. The issues presented by Solula's Motion are important to our clients, especially since Solula seeks to file a brief in support of legal arguments that DW and Ellington have opposed through years of litigation in this Court, and in the trial court below.

5. The sought after adjournment will give us, our co-counsel in California, and our clients time to review Solula's motion and respond appropriately. We were unable to do so last week because of the shortness of time, as well as other litigation, business and personal obligations.

6. Granting a two week extension of time to respond to the Solula's Motion for permission to submit an *amicus* brief will be of no prejudice whatsoever to Solula. In this regard, the case has not been calendared for argument, and the Court has not yet ruled on the litigants' joint application for a three-part brief filing protocol that eliminated the need for cross-motions.

WHEREFORE, it is respectfully requested that the Institutional Investors' application for an extension of time, in which DW and Ellington join, be granted.

Dated: New York, New York
March 22, 2021



David I. Greenberger

EXHIBIT A

From: Maya Scheef mscheef@kkwc.com
Subject: Re: In re Wells Fargo Bank, NA; Appellate Div. No. 2020-02716
Date: March 19, 2021 at 7:23 PM
To: E. Page Allinson Allinson@perrylaw.net
Cc: Isaac M. Gradman Gradman@perrylaw.net, Kristin A. Mattiske-Nicholls Nicholls@perrylaw.net, david@baileyduquette.com



Hi Page,

It is important to Solula that the return date remain March 22nd, so I am unable to consent to your request for adjournment.

Best,

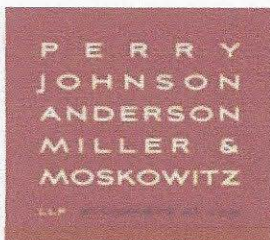
MAYA D. (CATER) SCHEEF
KLEINBERG, KAPLAN, WOLFF & COHEN, P.C.
500 FIFTH AVENUE, NEW YORK, NY 10110
D 212.880.9889 | mscheef@kkwc.com

From: E. Page Allinson <Allinson@perrylaw.net>
Sent: Friday, March 19, 2021 6:48 PM
To: Maya Scheef <mscheef@kkwc.com>
Cc: Isaac M. Gradman <Gradman@perrylaw.net>; Kristin A. Mattiske-Nicholls <Nicholls@perrylaw.net>; david@baileyduquette.com <david@baileyduquette.com>
Subject: In re Wells Fargo Bank, NA; Appellate Div. No. 2020-02716

Maya:

I am reaching out on behalf of DW Partners LP and Ellington Management Group, L.L.C., parties to the above-referenced appeal, in regard to the Motion for Leave to File an Amicus Brief filed by your client, Solula LLC. Given the late date of the filing in this matter, would your client agree to a 14-day adjournment to April 5, 2021 for the return date of Solula's motion so that we can continue to review and discuss with our clients? Please let me know as soon as you are able if your client will consent to this request.

Thank you,
Page



E. Page Allinson
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Perry, Johnson, Anderson, Miller & Moskowitz LLP remains open despite the ongoing public health crisis. Due to rapidly changing circumstances around COVID-19 and to ensure the safety of our clients, staff, and our community, all attorneys and staff are working remotely in compliance with current state and county orders. During this critical time, we remain available by phone and by email. If you