

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

WELLS FARGO BANK, N.A.,

Plaintiff,

:

Case No. 3:07-cv-449

-vs-

Magistrate Judge Michael R. Merz

:

LaSALLE BANK NATIONAL  
ASSOCIATION,

Defendant.

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**DECISION REGARDING DESIGNATIONS IN THE DEPOSITION OF  
PATRICIA RUBIN**

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This case is before the Court on the parties' request that the Court rule in limine on the admission of designated and cross-designated portions of depositions to be played at trial from edited videorecordings of the depositions. The background for the procedure to be followed is set forth in the Decision and Order Vacating Trial Date (Doc. No. 229). Rulings on the depositions will be issued as completed so that the video editing process can be started as needed.

The Court rules on the objections made in the Chart (attachment to Doc. No. 225) as corrected pursuant to Doc. Nos. 226 and 231, and as further clarified by the Appendix<sup>1</sup> to Doc. No. 192 as subsequently numbered in Attorney Marx's email of 8/12/2009 (12:11 P.M.), as follows:

|                                     |                                      |
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| p. 64, ll. 3-12                     | Wells Fargo's objection is overruled |
| p. 70, l. 15 through<br>p. 71, l. 6 | LaSalle's objection is overruled.    |

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<sup>1</sup>Both the numbered and unnumbered versions of this Appendix are now filed and docketed in the case for future reference at Doc. No. 241.

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| p. 75, ll. 10-22                          | LaSalle's objection is overruled.  |
| p. 85, l. 3 through<br>p. 89, l. 5        | LaSalle's objection is sustained - no connection with the two loans in suit is shown.  |
| p. 104, l. 7 through<br>p. 106, l. 16     | LaSalle's objection ll. 7-21 on p. 104 is sustained. The balance of LaSalle's objection is overruled.  |
| p. 132, ll 5-18                           | LaSalle's cumulativeness objection is sustained.   |
| p. 134, ll. 4-17                          | LaSalle's objection is sustained - Ms. Rubin makes clear at ll. 18-20 that she does not know about his work on the Rooths' loan.   |
| p. 135, l. 9 through<br>p. 136, l. 16     | Sustained on the same basis as the prior objection   |
| p. 142 l. 25 through<br>p. 143, l. 25     | LaSalle's objection is sustained. The question in the case is whether the two loans in suit were properly handled, not whether Mr. Miguel had a "sales" or "risk management" perspective.  |
| p. 190, l. 21<br>through p. 191, l.<br>15 | Wells Fargo's hearsay objection is overruled.  |
| p. 196, ll. 19-15                         | LaSalle's objection is overruled.  |
| p. 199, ll. 5-19                          | LaSalle's objection to lines 5-11 is sustained; the balance of the objection is overruled.   |
| p. 204, l. 10<br>through p. 205, l.<br>25 | The Court reads the reference in the Chart at p. 188 of "See Apx. Obj. 21) as referring to LaSalle's Objection No. 21 appearing at p. 10 of Doc. No. 193-3. While that objection is generally well taken and there is no specific reference within the body of the testimony objected to to one of the two loans in suit, the testimony does seem to refer to a specific claim made regarding the Priest loan. The objection is overruled on that basis. |
| p. 210, ll. 2-23                          | LaSalle's objection is sustained.  |
| p. 211, ll. 4-20                          | LaSalle's objection is sustained.  |
| p. 212, ll. 9-20                          | LaSalle's objection is sustained.  |
| p. 228, ll. 4-11                          | As the designation stands, Wells Fargo's objection is well taken. It appears, however, that the lack of clarity in the predicate could be cured by designating from the beginning of Mr. Snyder's question on p. 227.  |
| p. 233, l. 16<br>through p. 234, l.<br>17 | LaSalle's objection to lines 16-19 on p. 233 is overruled. LaSalle's objection to lines 20-25 on p. 233 and lines 1-4 on p. 234 is sustained. LaSalle's objection to lines 5-9 on p. 234 is overruled. LaSalle's objection to lines 10-17 is sustained.  |
| p. 237, ll. 4-14                          | LaSalle's objection is sustained.  |

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| p. 239, ll. 5-10                    | LaSalle's objection is overruled.   |
| p. 240, ll. 8-14                    | LaSalle's objection is overruled  |
| p. 241, ll. 1-16                    | LaSalle's objection is overruled  |
| p. 242, ll. 7-14                    | LaSalle's objection is overruled  |
| p. 243, ll. 16-19                   | LaSalle's objection is sustained: part of the answer is volunteered.  |
| p. 247 l. 12 through p. 250, l. 8   | LaSalle's objection is sustained: the witness did not request a PCA as to the Priest loan and did not testify (at least in this designated testimony or any other testimony called to the Court's attention) that her reason for not doing so was that Mr. Gembara regularly waived them when she requested them. Therefore the fact that he regularly made such waivers is not relevant. |
| p. 261, ll. 1-15                    | Wells Fargo's objection is sustained.   |
| p. 263, l. 21 through p. 268, l. 23 | LaSalle's objection is sustained, given the witness' lac of familiarity with the document.  |
| p. 271, l. 21 through p. 273, l. 22 | Wells Fargo's objection is overruled.   |
| p. 276, l. 12 through p. 279, l. 19 | LaSalle's objection is sustained as to p. 276, l. 12, through p. 277, l. 10, and otherwise overruled.   |
| p. 292, ll. 6-21                    | The objections of both parties are overruled.   |

September 11, 2009.

s/ **Michael R. Merz**  
United States Magistrate Judge