

**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.

**DECISION REGARDING DESIGNATIONS IN THE DEPOSITION OF
PAUL GEMBARA**

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 Appendix¹ to Doc. No. 192 as subsequently numbered in Attorney Marx's email of 8/12/2009 (12:11 P.M.), as follows:

p. 49, l. 11 to p. 51, l. 1	The parties' objections are overruled
p. 59, ll. 14-21	LaSalle's objection is sustained.

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

p. 60, l. 9 to p. 63, l. 9	LaSalle's objection is sustained through p. 62, l. 2 and thereafter overruled.
p. 64, l. 8 to p. 65, l. 20	LaSalle's objection is sustained
p. 67, l. 21 to p. 70, l. 1	LaSalle's objection is overruled.
p. 79, ll. 9-22	LaSalle's objection is overruled.
p. 81, l. 18 to p. 83, l. 9	LaSalle's objection is overruled.
p. 86, l. 6 to p. 87, l. 12	LaSalle's objection is overruled.
p. 90, ll. 7-18	LaSalle's objection is overruled.
p. 91, l. 13 to p. 92, l. 22	LaSalle's objection is overruled.
p. 99, l. 22 to p. 103, l. 3	LaSalle's general objection is overruled; its hearsay objection to ll. 17-23 on p. 100 is overruled as this testimony reports the verbal act of management; its objection to l. 24 pn p. 100 to l. 13 on p. 102 is overruled, but the balance of its objection is sustained.
	Additional ruling 10/26/2009: p. 99, l. 22 to p. 100, l. 4 is admitted; p. 100, ll. 5-16 are excluded; p. 100, ll. 17-23 are admitted; p. 100, l. 24 to p. 103, l. 3 are excluded.
p. 104, l. 20 to p. 105, l. 22	LaSalle's objection is sustained under Fed. R. Evid. 403.
p. 111, l. 22 to p. 112, l. 24	LaSalle's objection is overruled.
p. 113, l. 6 to p. 116, l. 7	The objections of both parties are overruled.
p. 117, l. 17 to p. 119, l. 2	LaSalle's objection is sustained.
p. 120, l. 20 to p. 125, l. 7	LaSalle's relevance objection is sustained, based on lack of tying this testimony to the time when the loans in suit were being made.
p. 130, ll. 3-24	Wells Fargo's objection is overruled.
p. 131, ll. 14-23	Wells Fargo's objection is overruled.
p. 135, l. 3 to p. 136, l. 9	Wells Fargo's objection is overruled, except that its objection to line 9 on p. 136 is sustained.

p. 137, l. 2 to p. 142, l. 18	Wells Fargo's objection is overruled, except that its objection to line 18 on p. 142 is sustained.
p. 149, l. 15 to p. 150, l. 14	Wells Fargo's objection is sustained. Fed. R. Evid. 602
p. 151, ll. 13-18	Wells Fargo's objection is sustained. Fed. R. Evid. 602
p. 153, ll. 6-20	Wells Fargo's objection is sustained.
p. 156, ll. 1-19	Wells Fargo's objection is overruled.
p. 156, l. 20 to p. 157, l. 24	LaSalle's objection is sustained. Fed. R. Evid. 403
p. 165, ll. 1-13	LaSalle's objection is sustained.
p. 167, ll. 7-18	LaSalle's objection is overruled.
p. 175, l. 15 to p. 176, l. 6	LaSalle's objection is sustained.
p. 179, l. 9 to p. 180, l. 4	Wells Fargo's objection is sustained.
p. 188, l. 1 to p. 189, l. 19	Both parties' objections are sustained.
p. 191, ll. 1-7	LaSalle's objection is sustained.
p. 191, l. 20 to p. 192, l. 3	LaSalle's objection is sustained.
p. 193, ll. 1-4	LaSalle's objection is sustained.
p. 197, ll. 1-7	Wells Fargo's objection is overruled
p. 197, ll. 19-24	Wells Fargo's objection is overruled
p. 199, ll. 1-20	LaSalle's objection is overruled
p. 200, l. 11 to p. 201, l. 8	LaSalle's objection is overruled
p. 203, l. 3 to p. 204, l. 23	LaSalle's objection is overruled
p. 206, l. 5 to p. 208, l. 9	LaSalle's objection is overruled
p. 210, l. 10 to p. 215, l. 14	Wells Fargo's objection is overruled
p. 216, ll. 7-11	Wells Fargo's objection is overruled

p. 216, l. 15 to p. 222, l. 13	LaSalle's objection is overruled
p. 225, ll. 1-21	Wells Fargo's objection is overruled
p. 226, l.1 to p. 227, l. 1	LaSalle's objection is overruled
p. 229, ll. 12-24	LaSalle's objection is overruled
p. 231, l. 9 to p. 235, l. 4	LaSalle's objection is sustained. The witness does not identify the photographs. Wells Fargo does not respond in Doc. No. 225-2 to LaSalle's allegation that the appraiser did not positively identify these photographs.
p. 237, l. 22 to p. 239, l. 11	LaSalle's objection is sustained on the same basis as the prior objection.
p. 239, l. 12 to p. 240, l. 22	Wells Fargo's objection is overruled
p. 242, l. 17 to p. 245, l. 7	Wells Fargo's objection is overruled
p. 245, ll. 18-24	LaSalle's objection is overruled
p. 246 l. 24 to p. 247, l. 4	LaSalle's objection is sustained
p. 254, l. 10 to p. 255, l. 17	LaSalle's objection is sustained
p. 257, l. 8 to p. 262, l. 7	LaSalle's objection is overruled
p. 265, l. 19 to p. 271, l. 24	LaSalle's objection is overruled
p. 273, l. 23 to p. 275, l. 23	LaSalle's objection is overruled
p. 282, l. 19 to p. 285, l. 12	LaSalle's objection is overruled
p. 294, l. 2 to p. 296, l. 17	The objections of the parties are overruled, but lines 1-10 on p. 295 shall be excised from what is shown to the jury.
p. 298, ll. 17-20	LaSalle's objection is sustained
p. 299, l. 14 to p. 300, l. 9	LaSalle's objection is sustained
p. 301, ll 15-22	LaSalle's objection is sustained

p. 306, ll. 5-24	LaSalle's objection is overruled
p. 308, ll. 1-24	LaSalle's objection is overruled
p. 309, l. 15 to p. 310, l. 1	LaSalle's objection is sustained
p. 311, l. 11 to p. 314, l. 17	The objections of both parties are overruled
p. 318, l. 13 to p. 320 l. 17	The objections of both parties are overruled
p. 323, ll. 3-11	Wells Fargo's objection is overruled.

October 26, 2009.

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