

**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
PAMELA J. REIMANN (October 1, 2008)**

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:

¹Both the numbered and unnumbered versions of this Appendix are being filed and docketed in the case for future reference.

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| p. 57 ll. 22-24 | LaSalle's relevance objection is overruled. |
| p. 58 ll. 1-17 | LaSalle's relevance objection to ll. 1-3 is overruled. LaSalle's hearsay objection to ll. 4-17 is sustained. |
| p. 75 ll. 4 through p. 82, l. 21 | LaSalle's objection is sustained. The witness is not competent to testify about underwriting guidelines merely because she says she had seen them once or twice. See p. 214 of Doc. No. 225-2. In the designated testimony, she says she does not recognize them. She has not been designated as an expert witness by Wells Fargo, so the fact that she might be competent in the abstract to give opinion testimony about why it would be a good idea to have a property condition assessment is not admissible testimony in Wells Fargo's case. Furthermore, her later testimony about what a property condition assessment is or might be makes it clear she does not know its meaning with respect to this case. Given the sustaining of LaSalle's objection, its counter designation becomes superfluous. |
| p. 87, ll. 3-6 | Given that Wells Fargo has now designated ll. 7-12 as well, LaSalle's objection is overruled. |
| p 118, l. 13 through p. 119, l. 19.. | Wells Fargo's objection is unintelligible and therefore overruled. |
| p. 119, l. 20 through p. 120, l. 18 | LaSalle's objection is overruled. |
| p. 122, ll. 7-11 | LaSalle's objection is sustained. Wells Fargo's response "This is true of LaSalle's designation as well and if that testimony comes in, so should this clarification that she has not [sic] basis on which to base her earlier statements; foundation, speculation, hearsay" is unintelligible without a specific reference to what prior designation Wells Fargo is complaining about. |
| p. 136, l. 14, through p. 137, l. 8. | LaSalle's objection is sustained: the question asks the witness for information she readily admits she does not have. Wells Fargo responds that this merely clarifies that she also does not have personal knowledge of the facts to which she testifies in "the preceding designation of LaSalle." Assuming the designation referred to is the LaSalle designation of p. 134, l. 16 through p. 136, l. 13, the Court disagrees: the witness never indicated she did not know the information about which she is testifying at this point. |

September 11, 2009.

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