

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

DATATREASURY CORPORATION,

Plaintiff

v.

WELLS FARGO & CO., et al.,

Defendants

CIVIL ACTION NO. 2:06-CV-72 DF

**DEFENDANTS KEYCORP'S AND KEYBANK NATIONAL ASSOCIATION'S
RESPONSE TO PLAINTIFF'S MOTION FOR CONSOLIDATION**

Defendants KeyCorp and KeyBank National Association (collectively "KeyBank"), submit this Response in opposition to Plaintiff DataTreasury Corporation's ("DTC") Motion for Consolidation (Docket No. 125). Consolidation of this case with all of DTC's previously filed cases is not warranted because individual issues in the cases greatly predominate over any common issues. As a result, consolidation will cause the parties inconvenience, delay, prejudice and expense. Consolidation is also not warranted because the cases sought to be consolidated are at vastly different stages of proceedings. Lastly, even if there are common issues that might benefit from consolidation, these issues can just as easily be dealt with through coordination of certain pretrial activities among counsel in the various cases.

In support of this Response and in the interest of brevity, KeyBank relies on and incorporates herein by reference as if set forth verbatim the arguments presented in the Defendants' Response to Plaintiff's Motion for Consolidation¹ ("Joint Response") filed on June

¹ The Joint Response was filed on behalf of Defendants Bank of America Corporation; Bank of America, N.A.; Bank of New York Co., Inc.; Bank of Tokyo-Mitsubishi UFJ, Ltd.; BB&T

22, 2006 (Docket No. 199). KeyBank bases this Response on the arguments and legal authorities set forth in the Joint Response, and seeks the same relief requested therein.

Dated: June 22, 2006

Respectfully submitted,

McKOOL SMITH, P.C.

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Corporation; Branch Banking and Trust Company; Citizens Financial Group, Inc.; Comerica Bank & Trust, N.A.; Comerica Incorporated; Cullen/Frost Bankers, Inc.; Deutsche Bank Trust Company Americas; First Data Corporation; LaSalle Bank Corporation; LaSalle Bank, N.A.; M&T Bank Corporation.; M&T Bank; Remitco, LLC; TeleCheck Services, Inc.; The Bank of New York; The Frost National Bank; UBS Americas, Inc.; Union Bank of California, N.A.; Wachovia Bank, N.A.; Wachovia Corporation; U.S. Bancorp; U.S. Bank National Association; National City Corporation; National City Bank; Zions Bancorporation; Zions First National Bank; Wells Fargo & Company; and Wells Fargo Bank, N.A.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service on this the 22nd day of June, 2006.. Local Rule CV-5(a)(3)(A).

/s/ L. David Anderson
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