

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

DATATREASURY CORPORATION	§	
<i>PLAINTIFF</i>	§	
	§	
vs.	§	Civil Action No. 2:06cv72
	§	JURY TRIAL DEMANDED
WELLS FARGO & COMPANY, et al.	§	
<i>DEFENDANTS</i>	§	

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**PLAINTIFF DATATREASURY CORPORATION'S SURREPLY IN  
RESPONSE TO DEFENDANTS FIRST-CITIZENS BANK & TRUST  
COMPANY'S MOTION TO DISMISS FOR FAILURE TO STATE CLAIM, OR  
IN THE ALTERNATIVE, FOR A MORE DEFINITE STATEMENT**

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Comes now Plaintiff DataTreasury Corporation (“DataTreasury”) and files its Surreply in Response to Defendants First-Citizens Bank & Trust Company’s Motion to Dismiss for Failure to State Claim, or in the Alternative, for a More Definite Statement. DataTreasury respectfully requests that this Court deny Defendants First-Citizens Bank & Trust Company’s Motion to Dismiss for Failure to State Claim, or in the Alternative, for a More Definite Statement Motion in its entirety. In support thereof, DataTreasury incorporates, in its entirety, its Surreply in Response to Defendants’<sup>1</sup> Reply in Support of Defendants’ Motion to Dismiss or in the Alternative for More Definite Statement and the arguments and authorities cited therein filed on June 26, 2006 (Docket No. 220).

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<sup>1</sup> The Joint Reply 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 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; Wells Fargo & Company; Wells Fargo Bank, N.A.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) and served via the Court's electronic filing system on all counsel who have consented to electronic service on this the 26th day of June, 2006.

/s/ R. BENJAMIN KING  
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