

# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

1 DATATREASURY CORPORATION, )  
2 )  
3 Plaintiff, )  
4 )  
5 VS. ) NO. 2:06-CV-72 (DF)  
6 )  
7 WELLS FARGO & COMPANY, ET AL.)  
8 )  
9 Defendants. )

10 \*\*\*\*\*

11 VIDEOTAPED ORAL DEPOSITION OF

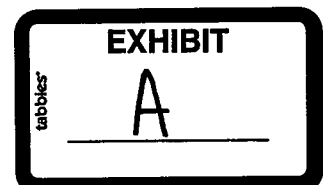
12 JOHN GRAY

13 FEBRUARY 7, 2007

14 CONFIDENTIAL - FOR OUTSIDE COUNSEL ONLY

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16  
17 On the 7th day of February, 2007, at 9:18 a.m., the  
18 videotaped oral deposition of the above-named witness  
19 was taken at the instance of the Plaintiff, DataTreasury  
20 Corporation, before Michelle L. Munroe, Certified  
21 Shorthand Reporter in and for the State of Texas, at the  
22 offices of Ward & Smith, P.A., Two Hannover Square,  
23 Fayetteville Street, Raleigh, North Carolina, pursuant  
24 to Notice.  
25



1 us to remit it to this Dallas, Texas address. But we  
 2 did, and for that reason we disclosed that to you.  
 3 Q. Is it your testimony that when First Citizens  
 4 BancShares, Inc. is directly billed by just like this, a  
 5 matter here that it turns around and pays and sends a  
 6 check to Dallas, Texas, that that's not conducting  
 7 business in Texas?  
 8 A. I do not recall having any contact with any  
 9 individual from Texas related to this matter. To the  
 10 best of my recollection, we handled -- or this  
 11 engagement was handled by members of the Raleigh and  
 12 Charlotte offices.  
 13 Q. Let me ask the question again. Do you not  
 14 consider being invoiced -- First Citizens BancShares,  
 15 Inc. being invoiced and First Citizens BancShares, Inc.  
 16 turning around and sending a check directly to Texas to  
 17 pay that invoice conducting business in Texas?  
 18 A. No, sir.  
 19 Q. Do you not consider that directing an activity  
 20 toward the state of Texas?  
 21 A. No, sir.  
 22 Q. Mailing a check?  
 23 A. We remitted as they requested us to do for the  
 24 services that were provided to us.  
 25 Q. Mailing a check to a company in the state of

1 A. Yes, sir.  
 2 Q. Had you met the attorneys from Texas that came  
 3 up here in North Carolina to defend this deposition, had  
 4 you met them before?  
 5 A. I had met neither of them before.  
 6 Q. Did you talk on the phone before?  
 7 A. I had talked to both of them on the phone  
 8 before.  
 9 Q. Do you know how many times?  
 10 A. Not precisely.  
 11 (Exhibit No. 27 marked.)  
 12 Q. I have marked as Exhibit 27, Amended Notice of  
 13 Intention to Take Oral and Video Deposition of 30(b)(6)  
 14 representative of First Citizens BancShares, Inc.  
 15 And flipping, so you can see, to page 7,  
 16 there's a topic area list of 1 through 23.  
 17 You have seen this document before, correct?  
 18 A. Yes, sir.  
 19 Q. Do you understand that you have been presented  
 20 here today as the corporate representative of First  
 21 Citizens BancShares, Inc. to give binding testimony on  
 22 behalf of the corporation on those topics that we have  
 23 been discussing?  
 24 MR. RODRIGUEZ: Objection; form.  
 25 A. I'm presuming on behalf of First Citizens

1 Texas in your mind is not directing an activity toward  
 2 the state of Texas?  
 3 A. No, sir.  
 4 MR. RODRIGUEZ: Objection; form.  
 5 Q. And the same would hold true for Third Eye  
 6 Photography?  
 7 A. Yes, sir.  
 8 Q. That's not directing activity toward the State  
 9 of Texas?  
 10 A. Yes, sir, that's correct.  
 11 Q. When the leases were negotiated for IronStone  
 12 Bank locations that lease property -- let me back up.  
 13 Does IronStone Bank own all of its locations  
 14 and property in Texas or does it lease them, some  
 15 locations?  
 16 A. I'm not sure of the particulars, whether  
 17 they're owned or leased properties.  
 18 Q. How much time did you spend meeting with your  
 19 lawyers before the deposition today?  
 20 A. Approximately four hours.  
 21 Q. Was that yesterday?  
 22 A. Yes, sir.  
 23 Q. Where did you guys meet?  
 24 A. We met at the offices of Ward & Smith.  
 25 Q. Did you review any documents in that meeting?

1 BancShares, Inc.  
 2 Q. Correct.  
 3 A. Yes, sir.  
 4 Q. To give binding testimony on behalf of the  
 5 corporation on these topics that we have been discussing  
 6 today. Do you understand that?  
 7 A. Yes, sir.  
 8 MR. RODRIGUEZ: Objection; form.  
 9 Q. Have you understood all my questions here  
 10 today?  
 11 A. I believe so.  
 12 Q. Have you ever read the patents that are at  
 13 issue in this case?  
 14 A. No, sir.  
 15 Q. Have you ever had any discussions with anybody  
 16 else outside the presence of your counsel concerning  
 17 this lawsuit?  
 18 A. I don't recall any conversations with anyone  
 19 other than individuals we have discussed today from whom  
 20 I solicited assistance in preparing my responses.  
 21 Q. Have you ever had any discussions with anybody  
 22 other than your counsel outside the First Citizens  
 23 organization about this lawsuit?  
 24 A. Being a nonattorney, nonemployee or  
 25 nondirector of First Citizens BancShares or First

1 Citizens Bank & Trust Company?  
 2 Q. Yes, sir.  
 3 A. No, sir.  
 4 Q. And you have worked with the First Citizens  
 5 organization for 28 years you said?  
 6 A. 21 years.  
 7 Q. 21 years. Excuse me. Do you like your job?  
 8 A. I do. It's a great place to work.  
 9 Q. You want to keep it?  
 10 A. I do.  
 11 MR. BRUSTER: Thanks for your time. I'll  
 12 pass the witness.  
 13 MR. RODRIGUEZ: Take a short break.  
 14 THE VIDEOGRAPHER: We're off the record.  
 15 (Recess taken 4:15 to 4:19 p.m.)  
 16 THE VIDEOGRAPHER: We're back on the  
 17 record.  
 18 EXAMINATION  
 19 BY MR. RODRIGUEZ:  
 20 Q. Mr. Gray, do you remember discussing earlier  
 21 in the deposition the insurance policies issued to First  
 22 Citizens BancShares, Inc. and its direct and indirect  
 23 subsidiaries?  
 24 A. Yes, sir.  
 25 Q. Who pays for the -- any insurance that is

1 MR. RODRIGUEZ: Pass the witness.  
 2 FURTHER EXAMINATION  
 3 BY MR. BRUSTER:  
 4 Q. Did you have a chance to visit with your  
 5 counsel before answering these last couple questions?  
 6 A. Yes, sir.  
 7 MR. BRUSTER: Nothing further.  
 8 THE VIDEOGRAPHER: We're off the record.  
 9 (Deposition concluded at 4:22 p.m.)  
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1 procured where the insured is First Citizens BancShares,  
 2 Inc. and its direct and indirect subsidiaries and for  
 3 which coverage exists for IronStone?  
 4 MR. BRUSTER: Object to form.  
 5 A. Could you repeat the question, please?  
 6 Q. Sure. Who pays for the insurance coverage for  
 7 IronStone properties or employees?  
 8 MR. BRUSTER: Object to form.  
 9 A. With respect to the property coverage and the  
 10 workers' compensation coverage, the policies that are in  
 11 the name of First Citizens BancShares, Inc. and direct  
 12 and indirect subsidiaries, the invoices are paid by  
 13 First Citizens Bank & Trust Company, but a portion of  
 14 the property and workers' compensation premiums are  
 15 recovered from IronStone by First Citizens Bank & Trust  
 16 Company.  
 17 Q. Do you recall testifying that you had the  
 18 desire to remain with First Citizens Bank & Trust in the  
 19 job you currently hold or other positions?  
 20 A. Yes, sir.  
 21 Q. How has that desire affected the answers you  
 22 have provided here today on behalf of First Citizens  
 23 BancShares, Inc.?  
 24 A. It has not. I have told the truth to the best  
 25 of my ability.

1 DEPOSITION CHANGES  
 2 WITNESS: JOHN GRAY  
 3 PAGE NO. LINE NO.CHANGE REASON FOR CHANGE  
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4 \_\_\_\_\_  
(Signature of the Witness)  
5  
6  
7  
8 THE STATE OF \_\_\_\_\_  
9 COUNTY OF \_\_\_\_\_  
10  
11 Subscribed and sworn to before me by the said  
12 witness, JOHN GRAY, on this the \_\_\_\_\_ day of  
13 \_\_\_\_\_, 2007.  
14  
15  
16 \_\_\_\_\_  
Notary Public in and for the  
17 State of \_\_\_\_\_  
County of \_\_\_\_\_  
18 My commission expires: \_\_\_\_\_  
19  
20  
21  
22  
23  
24  
25

1 FOR THE DEFENDANTS FIRST CITIZENS BANCSHARES, INC. AND  
2 FIRST CITIZENS BANK & TRUST COMPANY:  
3 Mr. Fernando Rodriguez, Jr.  
4 BAKER-BOTTS, LLP  
5 2001 Ross Avenue  
6 Dallas, Texas 75201-2980  
7  
8 I further certify that I am neither counsel for nor  
9 related to any party in this cause and am not  
10 financially interested in its outcome.  
11 Given under my hand on this the \_\_\_\_\_ day of  
12 \_\_\_\_\_, 2007.  
13  
14  
15  
16 \_\_\_\_\_  
Michelle L. Munroe, CSR No. 6011  
17 GRETCHEN SHORE COURT REPORTING & RECORDS  
Firm Registration Number 90  
P.O. Box 1789  
18 Longview, Texas 75606  
903.758.2183 phone  
19 903.758.4890 fax  
20 My commission expires 12-31-07  
21 Original deposition sent to Mr. Rodriguez on  
\_\_\_\_\_, 2007 for signature.  
22  
23  
24  
25

1 STATE OF TEXAS )  
2 COUNTY OF DALLAS )  
3  
4 I, Michelle L. Munroe, Certified Shorthand Reporter  
5 in and for the State of Texas, certify that the  
6 foregoing deposition of JOHN GRAY was reported  
7 stenographically by me at the time and place indicated,  
8 said witness having been placed under oath by me, and  
9 that the deposition is a true record of the testimony  
10 given by the witness.  
11 That the amount of time used by each party at the  
12 deposition is as follows:  
13 Mr. Bruster - 5 hours, 4 minutes  
Mr. Rodriguez - 3 minutes  
14  
15 That pursuant to information given to the deposition  
16 officer at the time said testimony was taken, the  
17 following includes counsel for all parties of record:  
18  
19 FOR THE PLAINTIFF DATATREASURY CORPORATION:  
20 Mr. Anthony Bruster  
21 NIX PATTERSON & ROACH, LLP  
22 2900 St. Michael Drive  
23 Suite 500  
24 Texarkana, Texas 75503  
25