

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

DATATREASURY CORP.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	No. 2:06-cv-0072-DF
	§	JURY TRIAL DEMANDED
WELLS FARGO & COMPANY, et. al.	§	
	§	
Defendants	§	
	§	

**DATA TREASURY CORPORATION’S MOTION TO PERMIT WITHDRAWAL
OF PLAINTIFF’S PROPOSED DEPOSITION PROTOCOL ORDER, AND FOR
ENTRY OF JOINTLY PROPOSED DEPOSITION PROTOCOL ORDER**

COMES NOW DataTreasury Corporation (“DataTreasury”) and moves the Court for an Order permitting the withdrawal of Plaintiff’s previously proposed Deposition Protocol Order, and for entry of the jointly proposed Deposition Protocol Order. In support wherefore, DataTreasury states as follows:

- (1) On November 9, 2006, the parties submitted to the Court a Joint Motion for Entry of a Deposition Protocol Order (Docket #353);
- (2) As exhibits to this Motion, the parties submitted for the Court’s consideration two different and alternate versions of a Deposition Protocol Order, one proposed by DataTreasury (Docket #353, Attachment 2), the other by Defendants (Docket #353, Attachment 1). The two proposals are identical, except for certain minor provisions concerning the methodology for the video-recording of depositions;
- (3) To expedite resolution of the controversy, DataTreasury now requests that the Court permit withdrawal of the Deposition Protocol Order it earlier proposed

to the Court, and that the Court instead adopt and enter the now-unanimously proposed Deposition Protocol Order originally advanced by Defendants (Docket #353, Attachment 1).

For the foregoing reasons, DataTreasury respectfully requests that the Court grant the relief described herein.

Respectfully submitted,

/s/ Karl A. Rupp_____

ANTHONY BRUSTER
State Bar No. 24036280
R. BENJAMIN KING
State Bar No. 24048592
C. CARY PATTERSON
State Bar No. 15587000
BRADY PADDOCK
State Bar No. 00791394
NIX PATTERSON & ROACH L.L.P.
2900 St. Michael Drive, Suite 500
Texarkana, Texas 75503
Tel. (903)223-3999; Fax (903)223.8520
akbruster@nixlawfirm.com
benking@nixlawfirm.com
ccp@nixlawfirm.com
bpaddock@nixlawfirm.com

EDWARD L. HOHN, ATTORNEY IN CHARGE
State Bar No. 09813240
ROD A. COOPER
Texas Bar No. 90001628
EDWARD CHIN
State Bar No. 50511688
NIX PATTERSON & ROACH L.L.P.
Williams Square
5215 North O'Connor Blvd., Suite 1900
Irving, Texas 75039
Tel. (972)831-1188; Fax (972)444-0716
edhohn@nixlawfirm.com
edchin@nixlawfirm.com
rcooper@cooperiplaw.com

JOE KENDALL
Texas Bar No. 11260700
KARL RUPP
Texas Bar No. 24035243
PROVOST UMPHREY, L.L.P.
3232 McKinney Avenue, Suite 700
Dallas, Texas 75204
Tel. (214)744-3000; Fax (214) 744-3015
jkendall@provostumphrey.com
krupp@provostumphrey.com

ERIC M. ALBRITTON
Texas Bar No. 00790215
ALBRITTON LAW FIRM
P.O. Box 2649
Longview, Texas 75606
Tel. (903)757-8449; Fax (903)758-7397
ema@emafirm.com

T. JOHN WARD JR.
Texas Bar No. 00794818
THE LAW OFFICE OF T. JOHN WARD, JR.
P.O. Box 1231
Longview, Texas 75606
Tel. (903)757-6400; Fax (903) 757-2323
jw@jwfirm.com

**ATTORNEYS FOR PLAINTIFF
DATATREASURY CORPORATION**

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 14th day of August, 2007.

/s/ Karl A. Rupp _____

Karl A. Rupp

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that a conference with defense counsel took place on August 13, 2007 regarding the foregoing document and the Motion is unopposed.

/s/ Karl A. Rupp _____

Karl A. Rupp