

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

DATATREASURY CORPORATION,	§	
	§	
Plaintiff,	§	
	§	CIVIL ACTION NO. 2:06-CV-72-DF
v.	§	
	§	JURY TRIAL DEMANDED
WELLS FARGO & COMPANY, et al.	§	
	§	
Defendants.	§	

DEFENDANT FIRST-CITIZENS BANK & TRUST COMPANY’S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM, OR IN THE ALTERNATIVE, FOR A MORE DEFINITE STATEMENT

Defendant First-Citizens Bank & Trust Company (“First-Citizens Bank”) moves pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss DataTreasury’s claims against First Citizens BancShares for failure to state a claim upon which relief may be granted. In the alternative, First-Citizens Bank moves pursuant to Federal Rule of Civil Procedure 12(e) for a more definite statement of DataTreasury’s claims.

In support of this Motion and in the interest of brevity, First-Citizens Bank relies on and incorporates herein by reference the arguments presented in the Joint Motion of Defendants to Dismiss, or in the Alternative, for More Definite Statement, filed on June 1, 2006 (Docket No. 80), by the codefendants listed below.¹

¹ The Joint Motion of Defendants to Dismiss, or in the Alternative, for More Definite Statement, filed on June 1, 2006 (Docket No. 80), was filed by the following codefendants: 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, Inc.; 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; and Wells Fargo Bank, N.A.

Respectfully submitted,

/s/ Larry D. Carlson

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ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I certify that on the 1st day of June, 2006, all counsel who are deemed to have consented to electronic service are being served with a copy of this document by the Court's Electronic Filing System, pursuant to Local Rule CV-5(a)(3)(A).

/s/ Larry D. Carlson

Larry D. Carlson