

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the matter of the application of

U.S. BANK NATIONAL ASSOCIATION and U.S.  
BANK TRUST COMPANY, NATIONAL  
ASSOCIATION (each separately as Trustee, Securities  
Administrator, Paying Agent, and/or Calculation  
Agent, as applicable, under various Pooling and  
Servicing Agreements),

Petitioners,

for judicial instructions pursuant to CPLR Art. 77.

Index No. 656028/2021

Justice Andrew S. Borrok  
Part 53

**STIPULATION AND [PROPOSED]  
SCHEDULING ORDER**

WHEREAS petitioners U.S. Bank National Association and U.S. Bank Trust Company, National Association (“Petitioners”), solely in their capacities as trustee, securities administrator, paying agent, and/or calculation agent, as applicable, for seventy-seven residential mortgage backed securities trusts (the “Subject Trusts”), filed a petition on October 18, 2021 (NYSCEF Doc. No. 1) and subsequently filed a first amended petition on December 28, 2021 (NYSCEF Doc. No. 33) (the “Amended Petition”); and

WHEREAS, the following certificateholders collectively constitute all interested persons appearing in the proceeding: (a) ASO Atlantic Fund LLC; (b) Ellington Management Group L.L.C.; (c) FFI Fund Ltd., FYI Ltd., Olifant Fund, Ltd., Park Royal II LLC, Taconic Master Fund 1.5 LP, and Taconic Opportunity Master Fund LP; (d) HBK Master Fund L.P.; (e) U.S. Bank National Association, solely in its capacity as trustee of NIM trusts BSABS NIM 2003-HE1, BSABS NIM 2004-FR3N, BSABS NIM 2004-HE11, BSABS NIM 2004-HE6N, BSABS NIM 2004-HE9N, BSABS NIM 2005-AQ2N, and BSABS NIM 2005-FR1, and solely at the direction of HBK Master Fund L.P.; (f) NAV LLC, Reliance Standard Life Insurance Co., Safety National Casualty Corporation, and Stephen Finkelstein; (g) Pacific Investment Management Company LLC, on behalf of certain investment vehicles for which it serves as investment manager, adviser,

or sub-adviser; (h) Poetic Holdings 8 LP, Poetic Holdings IX LP, and Poetic Holdings VII LLC; (i) Poetic Holdings VI LLC; and (j) U.S. Bank National Association, solely in its capacity as trustee for the NIM Trusts BSSP 2005-32N, BSNIM 2004-HE10, and BSSP 2006-3, and solely at the direction of Poetic Holdings VI LLC (subparts (a) through (j) collectively, the “Appearing Certificateholders”); and

WHEREAS, various Appearing Certificateholders served discovery requests on Petitioners seeking Petitioners’ documents, emails, and other files related to the Subject Trusts; and

WHEREAS, on September 8, 2022, the Court entered the Stipulation and Scheduling Order (NYSCEF Doc. No. 154) (the “Scheduling Order”) modifying the case schedule and providing that: (1) Petitioners’ document production shall be completed by October 13, 2022; (2) a status conference with the Court shall be held on October 13, 2022; (3) Petitioners’ Rule 11-f witness shall be Daniel Nevis, a Senior Vice President and officer for Petitioners, and the deposition shall be scheduled for November 16, 2022 (subject to the parties reserving the right to modify the deposition date if necessary); (4) fact discovery shall be closed by December 8, 2022; (5) the parties shall file moving briefs simultaneously on or before January 16, 2023, including expert affidavits if the parties so choose; (6) the parties shall file responsive briefs simultaneously on or before February 13, 2023, including expert affidavits if the parties so choose; and (7) the parties shall provide a deposition schedule with names and dates by October 13, 2022; and

WHEREAS, Petitioners and the Appearing Certificateholders have met and conferred regarding the discovery requests and Petitioners’ document production, and have reached agreement regarding the scope of discovery in this action, including as set forth in the Ex Parte Order and Partial Final Judgment entered on August 22, 2022 (NYSCEF Doc. No. 151); and

WHEREAS, Petitioners began making rolling productions on August 5, 2022 and have made nine document productions to date, consisting of internal files, emails, and other documents and information relevant and responsive to the Appearing Certificateholders' requests; and

WHEREAS, Petitioners have substantially completed document productions in this action, but require a limited amount of additional time to fully review and produce all materials responsive to the Appearing Certificateholders' requests as well as to prepare a privilege log in accordance with Commercial Division Rule 11-b; and

WHEREAS, a scheduling conflict has arisen for the parties with respect to the aforementioned deposition date of November 16, 2022, requiring the deposition to be moved to a later date; and

WHEREAS, as requested by the Court in the Scheduling Order, the parties hereby provide the Court with the following modified deposition schedule for this action:

Deponent	Date of Deposition
Daniel Nevis – Rule 11-f Corporate Representative for U.S. Bank	December 8, 2022

WHEREAS, Petitioners and the Appearing Certificateholders currently have no issues to raise or discuss with the Court, and therefore wish to adjourn the October 13, 2022 status conference to November 15, 2022, provided that the parties shall promptly contact Part 53 by email prior to November 15, 2022 if any issues arise in the interim that require attention of the Court; and

WHEREAS, Petitioners and the Appearing Certificateholders have agreed to the proposed modifications herein to the Court's Scheduling Order, as set forth below; and

NOW, THEREFORE, on the motion of all appearing parties, it is hereby

ORDERED, ADJUDGED, AND DECREED that the ordered dates shall be modified as follows:

1. The October 13, 2022 status conference is adjourned to November 15, 2022 (provided that the parties shall promptly contact Part 53 by email prior to November 15, 2022 if any issues arise in the interim that require attention of the Court).
2. Petitioners' document production shall be completed by October 27, 2022.
3. Should the parties wish to schedule additional depositions following the completion of Petitioners' document production, the parties shall provide the Court an updated deposition schedule with names and dates by November 15, 2022.
4. Petitioners' Rule 11-f witness shall be Daniel Nevis, a Senior Vice President and officer for Petitioners, and the deposition shall be scheduled for December 8, 2022 (provided that the parties may modify the deposition date by mutual agreement so long as the parties notify the Court of any change to such date).
5. The parties reserve all rights to seek or oppose additional depositions in the event Petitioners' Rule 11-f witness is not adequately prepared or knowledgeable to testify regarding the topics in the Respondents' deposition notices (subject to Petitioners' objections to such topics) or based upon disputes regarding privileges and other instructions not to answer questions. The parties further reserve all of their rights to seek or oppose the deposition of any expert who submits an affidavit in this action.
6. Fact discovery shall close by December 22, 2022.
7. The parties shall file moving briefs simultaneously on or before January 30, 2023, including expert affidavits if the parties so choose.

8. The parties shall file responsive briefs simultaneously on or before February 27, 2023, including expert affidavits if the parties so choose.

Dated: New York, New York

\_\_\_\_\_, 2022

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Hon. Andrew Borrok, J.S.C.

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