

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] ORDER SETTING A
PRE-TRIAL SCHEDULE**

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., and Olifant Fund, Ltd.; (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) Park Royal II LLC, Taconic Master Fund 1.5 LP, and Taconic Opportunity Master Fund LP; (h) Pacific Investment Management Company

LLC, on behalf of certain investment vehicles for which it serves as investment manager, adviser, or sub-adviser; (i) Poetic Holdings 8 LP, Poetic Holdings IX LP, and Poetic Holdings VII LLC; (j) Poetic Holdings VI LLC; and (k) 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, the final hearing in this matter is scheduled for the week of December 11-15, 2023;

WHEREAS, all parties have met and conferred regarding a pre-hearing schedule; and

NOW, THEREFORE, all parties, by their below-referenced counsel, stipulate and agree as follows:

Witness and Exhibit lists: the parties shall: (a) exchange tentative witness and exhibit lists on or before October 4, 2023; (b) exchange any objections to the tentative witness and exhibit lists on or before October 11, 2023; (c) meet and confer to discuss objections on or before October 13, 2023; (d) exchange and file final witness and exhibit lists on or before October 16, 2023;

(2) **Motions in limine:** Any motions *in limine* will be filed on or before October 18, 2023. Papers opposing motions *in limine* will be filed on or before October 27, 2023. The Court will hear argument on any motions *in limine* filed by the parties on November 1, 2023 at _____, or at such other time as the Court directs;

(3) **Facts and documents not in dispute:** (a) Petitioner shall circulate on or before November 16, 2023 a draft stipulation setting forth those facts as to which there is no dispute and exhibits as to which there are no objection; (b) Respondents shall serve any comments or proposed revisions to the stipulation on or before November 22, 2023; (c) the parties shall confer on the

Respondents' comments and/or proposed revisions no later than November 30, 2023; (d) Petitioner shall file the finalized stipulation on or before December 1, 2023;

(4) **Deposition designations:** the parties shall: (a) exchange tentative deposition designations on or before November 10, 2023 for any witnesses expected to appear through deposition transcript testimony; (b) exchange any objections to each other's deposition designations on or before November 17, 2023; (c) meet and confer to discuss those objections between November 17, 2023 and December 1, 2023; and (d) exchange and file final deposition designations on or before December 5, 2023;

(5) **Other pre-hearing material deadlines:**

(a) On or before December 5, 2023, the parties shall file:

- (i) marked pleadings, if requested by the Court,
- (ii) prior decisions,
- (iii) requests for admission that were served and responded to during discovery,
- (iv) deposition transcripts (such transcripts to be uploaded in the "Evidence" tab in the e-file docket),
- (v) a Joint Pre-Trial Order, and
- (vi) direct testimony affidavits;

(b) On or before December 5, 2023, the parties shall upload exhibits to the "Evidence" tab in the e-file docket;

(c) On or before December 5, 2023, the parties shall exchange demonstratives; and

(6) The parties shall appear for a final pre-trial conference in this matter at _____ on November 1, 2023, or at another time as the Court may direct.

Dated: New York, New York
September _____, 2023

Hon. Andrew Borrok, J.S.C.

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