

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
(as Trustee, Securities Administrator, Paying Agent, and/or
Calculation Agent under various Pooling and Servicing
Agreements),

Petitioner,

For Judicial Instructions Under CPLR Article 77.

Index No. 656028/2021

Justice Andrew S. Borrok

IAS Part 53

**[PROPOSED] ORDER
RESETTING TRIAL DATES**

Motion Sequence No. ____

WHEREAS petitioners U.S. Bank National Association and U.S. Bank Trust Company, National Association (**Petitioners**), solely in their respective capacities as trustee, securities administrator, paying agent, and/or calculation agent, as applicable, for certain residential mortgage backed securities trusts filed a petition on October 18, 2021 (NYSCEF Doc. No. 1), a first amended petition on December 28, 2021 (NYSCEF Doc. No. 33), and a second amended petition on July 27, 2023 (NYSCEF Doc. No. 290); and

WHEREAS the following parties (**Appearing Certificateholders**) collectively constitute all interested persons appearing in the proceeding:

- ASO Atlantic Fund LLC
- Ellington Management Group L.L.C.
- HBK Master Fund L.P.
- U.S. Bank National Association, solely in its capacity as trustee of certain NIM trusts, and solely at the direction of HBK Master Fund L.P.
- FFI Fund Ltd., FYI Ltd., Olifant Fund, Ltd., NAV LLC, Reliance Standard Life Insurance Co., Safety National Casualty Corporation, Stephen Finkelstein, Park Royal II LLC, Taconic Master Fund 1.5 LP, and Taconic Opportunity Master Fund LP
- Pacific Investment Management Company LLC, on behalf of certain investment vehicles for which it serves as investment manager, adviser, or sub-adviser
- Poetic Holdings 8 LP, Poetic Holdings IX LP, and Poetic Holdings VII LLC
- Poetic Holdings VI LLC
- U.S. Bank National Association, solely in its capacity as trustee for certain NIM Trusts, and solely at the direction of Poetic Holdings VI LLC; and

WHEREAS one of the matters to be resolved in this proceeding is whether payments of deferred principal balances on mortgage loans constitute “Subsequent Recoveries” as defined by certain Pooling and Servicing Agreements (**PSAs**); and

WHEREAS the issue of whether payments of deferred principal constitute Subsequent Recoveries, as defined by certain PSAs, has also been raised in another matter, *In the Matter of Wells Fargo Bank, National Association* (Index No. 154984/2021) (**Wells Fargo**); and

WHEREAS in *Wells Fargo*, this Court recently Decided and Ordered that “Deferred Principal Payments are Subsequent Recoveries” (Decision and Order on Motion at 9 [NYSCEF Doc. No. 823]) (**Wells Fargo Decision**); and

WHEREAS the Court’s *Wells Fargo* Decision is subject to appeal, and several parties intend to appeal that finding; and

WHEREAS there is substantial overlap between the issues to be decided in the above-captioned *U.S. Bank* proceeding and the issues that the Court decided in the *Wells Fargo* Decision, which will be addressed on appeal; and

WHEREAS the final hearing in this matter is currently scheduled for the week of December 11–15, 2023; and

WHEREAS Pacific Investment Management Company LLC and HBK Master Fund L.P. have requested that this Court stay proceedings or adjourn trial in the above-captioned proceeding pending the outcome of an appeal of the Court’s *Wells Fargo* Decision; and

WHEREAS the Court agrees with the moving parties that it would be in the interest of judicial economy to reschedule the trial in this proceeding pending the outcome of an appeal of the Court’s *Wells Fargo* Decision; and

NOW, THEREFORE, on the motion of Pacific Investment Management Company LLC and HBK Master Fund L.P. it is hereby

ORDERED that the final hearing in this matter be rescheduled for trial November 4–8, 2025, or such other date as may become earlier available; and it is further

ORDERED that the parties shall promptly inform the Court of the outcome of the appeal of the *Wells Fargo* Decision and contact the Court to schedule a pre-trial conference in this case; and it is further

ORDERED that any previously entered or stipulated pretrial deadlines are stayed, with the parties to confer regarding a revised pretrial schedule in advance of the new trial date.

Dated: November ____, 2023

Hon. Andrew S. Borrok, J.S.C.