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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

**IN RE: CHINESE-MANUFACTURED
DRYWALL PRODUCTS LIABILITY
LITIGATION**

**MDL NO. 2047
SECTION: L**

**JUDGE FALLON
MAG. JUDGE WILKINSON**

THIS DOCUMENT RELATES TO:

ALL CASES

**MOTION TO SUBSTITUTE
PLAINTIFFS' LEAD AND LIAISON COUNSEL'S RESPONSE IN
OPPOSITION TO YANCE LAW FIRM'S MOTION TO IMMEDIATELY
TRANSFER ATTORNEY FEE QUALIFIED SETTLEMENT FUND TO A
DIFFERENT DEPOSITORY BANK OR BACK INTO THE COURT REGISTRY**

NOW COME Plaintiffs' Lead and Liaison Counsel, who respectfully submit that on June 26, 2018 a Memorandum and Response of Russ M. Herman, On Behalf of Russ M. Herman in His Capacity as Liaison Counsel and Arnold Levin as Lead Counsel in Response to Yance Law firm's Motion and Memorandum to Immediately Transfer Attorney Fee Qualified Settlement Fund to a Different Depository Bank or Back Into the Court Registry was filed under a Motion for leave to Exceed Page Limitation [Rec. Doc. 21429] was filed into the record. After review of the filing, it was determined that the formatting of the pleading was improper and Plaintiffs' Lead and Liaison Counsel request that the attached Response in Opposition to Yance Law Firm's Motion to Immediately Transfer Attorney Fee Qualified Settlement Fund to a Different Depository Bank or Back Into the Court Registry, with exhibits, be substituted in place and instead of the filing made at Rec. Doc. 21429. There has been no substantive change to the content of the pleading, other than to change the filed memoranda into the Declaration of Russ M. Herman and to adopt all

Declarations and Affidavits (with exhibits) as the response/opposition to the Yance Law Firm's Motion. Nothing new has been added to any portion of the pleading.

Respectfully submitted,

Dated: June 27, 2018

/s/ Russ M. Herman

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Leonard A. Davis, Esquire (Bar No. 14190) (on the brief)
Stephen J. Herman, Esquire (Bar No. 23129)

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Plaintiffs' Lead Counsel MDL 2047

Fee Committee Chair

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing pleading has been served on Defendants' Liaison Counsel, Kerry Miller, by e-mail and upon all parties by electronically uploading the same to LexisNexis File & Serve in accordance with Pre-Trial Order No. 6, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF System, which will send a notice of electronic filing in accordance with the procedures established in MDL 2047 on this 27th day of June, 2018.

/s/ Leonard A. Davis

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Plaintiffs' Liaison Counsel MDL 2047

Co-counsel for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE-MANUFACTURED
DRYWALL PRODUCTS LIABILITY
LITIGATION

MDL NO. 2047
SECTION: L

JUDGE FALLON
MAG. JUDGE WILKINSON

THIS DOCUMENT RELATES TO:

ALL CASES

ORDER

Considering the Motion to Substitute filed by Plaintiffs' Lead and Liaison Counsel;

IT IS ORDERED BY THE COURT that the motion is GRANTED and they be allowed to substitute the Plaintiffs' Lead and Liaison Counsel's Response in Opposition to Yance Law Firm's Motion to Immediately Transfer Attorney Fee Qualified Settlement Fund to a Different Depository Bank or Back Into the Court Registry in place and instead of the filing made at Rec. Doc. 21429 entitled "Memorandum and Response of Russ M. Herman, On Behalf of Russ M. Herman in His Capacity as Liaison Counsel and Arnold Levin as Lead Counsel in Response to Yance Law firm's Motion and Memorandum to Immediately Transfer Attorney Fee Qualified Settlement Fund to a Different Depository Bank or Back Into the Court Registry."

IT IS FUTHER ORDERED BY THE COURT that this substitution eliminates the need to exceed the page limitation and therefore the Motion to Exceed Page Limitation [Rec. Doc. 21429] is moot.

New Orleans, Louisiana, this ____ day of _____, 2018.

Eldon E. Fallon
United States District Court Judge

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

**IN RE: CHINESE-MANUFACTURED
DRYWALL PRODUCTS LIABILITY
LITIGATION**

**MDL NO. 2047
SECTION: L**

**JUDGE FALLON
MAG. JUDGE WILKINSON**

THIS DOCUMENT RELATES TO:

ALL CASES

**PLAINTIFFS' LEAD AND LIAISON COUNSEL'S RESPONSE IN
OPPOSITION TO YANCE LAW FIRM'S MOTION TO IMMEDIATELY
TRANSFER ATTORNEY FEE QUALIFIED SETTLEMENT FUND TO A
DIFFERENT DEPOSITORY BANK OR BACK INTO THE COURT REGISTRY**

MAY IT PLEASE THE COURT:

Plaintiffs' Lead and Liaison Counsel file this Response in Opposition to Yance Law Firm's Motion to Immediately Transfer Attorney Fee Qualified Settlement Fund to a Different Depository Bank or Back Into the Court Registry, filed on May 18, 2018 [Rec. Doc. 21338] ("Yance Motion"), as well as the joinders filed by Krupnick Campbell Malone [Rec. Doc. 21341], Taylor Martino, P.C. [Rec. Doc. 21350], and Morris Bart, LLC [Rec. Doc. 21360]. In opposition to the Yance Motion and all joinders, Plaintiffs' Lead and Liaison Counsel submit and incorporate the following attached exhibits:

1. Exhibit "A" – Declaration of Russ M. Herman (with exhibits);
2. Exhibit "B" – Declaration of Arnold Levin;
3. Exhibit "C" – Affidavit of Esquire Bank (with exhibits);
4. Exhibit "D" – Affidavit of Jacob S. Woody of BrownGreer.

Plaintiffs' Lead and Liaison counsel assert vehemently that there is no evidence of any improper actions taken by Esquire Bank and that Esquire Bank, as well as Lead and Liaison Counsel, prudently fulfilled their obligations with respect to Qualified Settlement Fund deposits, all of which were guaranteed by the United States of America. The funds were safe guarded and all interest received on such funds were properly reported monthly and annually each year. The accounts were "swept" daily and all funds were readily available. In summary, Court Orders were complied with and there has been nothing improper done with respect to any funds in QSFs.

Respectfully submitted,

Dated: June 26, 2018

/s/ Russ M. Herman

Russ M. Herman, Esquire (Bar No. 6819) (on the brief)
Leonard A. Davis, Esquire (Bar No. 14190) (on the brief)
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Plaintiffs' Lead Counsel MDL 2047

Fee Committee Chair

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing pleading has been served on Defendants' Liaison Counsel, Kerry Miller, by e-mail and upon all parties by electronically uploading the same to LexisNexis File & Serve in accordance with Pre-Trial Order No. 6, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF System, which will send a notice of electronic filing in accordance with the procedures established in MDL 2047 on this 26th day of June, 2018.

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Co-counsel for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

**IN RE: CHINESE-MANUFACTURED
DRYWALL PRODUCTS LIABILITY
LITIGATION**

**MDL NO. 2047
SECTION: L**

**JUDGE FALLON
MAG. JUDGE WILKINSON**

THIS DOCUMENT RELATES TO:

ALL CASES

DECLARATION OF RUSS M. HERMAN

STATE OF LOUISIANA

PARISH OF ORLEANS

Russ M. Herman declares, pursuant to 28 U.S.C. §1746, based upon his personal knowledge, information and belief, the following:

My name is Russ M Herman, Esq. I am a Member of the Bar of the State of Louisiana, in good standing; a Member of all United States District Courts in the State of Louisiana; a Member of the Fifth Circuit Court of Appeals and several other Federal Courts of Appeal, all in good standing. I am admitted to practice before the Louisiana State Supreme Court, the United States Supreme Court, and by Motion and Order, in many Federal District Courts. I graduated with a BA degree from Tulane University in 1963, and from Tulane Law School in 1966.

I have been a Lead Trial Counsel or a Liaison Counsel in Complex Litigation, Class Actions and MDLs since 1970.

I made full disclosure of my relationship and stock ownership in Esquire Bank as per the attached transcript dated September 17, 2013.

Liaison/Lead each have many Contracts with Taishan claimants. Liaison/Lead each had many Contracts with Knauf claimants.

Liaison/Lead have numerous and varied responsibilities:

- Officer of the Court;

- Responsibilities as set forth in PTOs directed by Judge Eldon Fallon;
- Responsibilities to treat Attorneys' Claimants in both Knauf Defendant entities and Taishan Defendants entities, as if and to the same extent of care, that Liaison/Lead have to their own Clients, and
- Responsibility to perform professionally and ethically.

In evidence of their dedication to the responsibilities of Liaison/Lead, each of the firms has performed 40,000 plus hours in Common Benefit work from the date of their appointments by Judge Eldon Fallon through December 31, 2013.

This Declaration is made in response and in opposition to Yance Law Firm's Motion and Memorandum of May 18, 2018 [Rec. Doc. 21338] ("Yance Motion"). On May 22, 2018, Krupnick Campbell Malone Et Al.'s Joinder in Relief Sought in Yance Law Firm's Motion to Immediately Transfer Attorney Fee Qualified Settlement Fund to a Different Depository or Back Into the Court Registry was filed with the Court [Rec. Doc. 21341] ("KCM Motion"). On May 31, 2018, Taylor Martino, P.C.'s Joinder in Relief Sought in Yance Law Firm's Motion to Immediately Transfer Attorney Fee Qualified Settlement Fund to a Different Depository or Back Into the Court Registry was filed with the Court [Rec. Doc. 21350] ("TM Motion"). On June 5, 2018, Morris Bart, LLC's Motion to Join and Adopt Yance Law Firm's Motion to Immediately Transfer Attorney Fee Qualified Settlement Fund to a Different Depository Bank or Back Into the Court Registry was filed with the Court [Rec. Doc. 21360] ("MB Motion"). This Opposition is in response to the Yance Motion, the KCM Motion, the TM Motion and the MB Motion, which collectively are referred to as the "Esquire Transfer Motions" or "ET Motions." All of the ET Motions attack the creation of funds at Esquire Bank as the Depository Bank for Qualified Settlement Funds ("QSFs") and request a transfer of each Attorney Fee QSF to a different Depository Bank other than Esquire Bank or back into the Court Registry until final disbursement. At the most recent status conference on June 12, 2018, the Court addressed the motion and ordered that the Attorney Fee Qualified Settlement Fund be transferred from Esquire Bank and placed in the Court Registry until further notice [Rec. Doc. 21405]. For many reasons, the ET Motions are untimely, not appropriate, and should be denied. However, Plaintiffs' Lead and Liaison Counsel recognize that the Court has ultimate authority over where these funds are deposited and abides by decisions of the Court. Currently, Liaison Counsel has caused the Attorney Fee Qualified Settlement Fund at Esquire Bank to be transferred to the Registry of the Court in the United States District Court for the Eastern District of Louisiana.

Various Settlement Agreements in this matter were entered into many years ago. The Settlement Agreement regarding claims against the Knauf Defendants in MDL No. 2047 was originally filed with this Court in December 2011 [Rec. Doc. 1206]. Section 14 of the Knauf Settlement Agreement specifically addresses Attorney's Fees.

On February 7, 2013, this Court entered an Order and Judgment certifying the InEx, Banner, Knauf, L&W and Global Settlement Classes; and Granting Final Approval to the InEx,

Banner, Knauf, L&W and Global Settlements [Rec. Doc. 16570]. The Settlements provide additional substantial benefits to the Class Members and certain funds for Attorney's Fees. Each of these Settlements are interrelated and on August 19, 2013, a Motion to Establish Various Qualified Settlement Funds and to Appoint Fund Administrator and Depository Bank [Rec. Doc. 17009] was filed. The motion sought for the Court to authorize and establish various Qualified Settlement Funds for:

- a. Banner Attorney Fee Settlement Fund;
- b. Banner Repair and Relocation Set Aside Settlement Fund;
- c. Banner Bodily Injury and Other Loss Set Aside Settlement Fund;
- d. Builders, Installers, Suppliers and Participating Insurers Bodily Injury and Other Loss Set Aside Fund;
- e. Builders, Installers, Suppliers and Participating Insurers Repair and Relocation Set Aside Fund;
- f. Builders, Installers, Suppliers and Participating Insurers Attorney Fee Settlement Fund;
- g. Interior/Exterior Building Supply, LP Repair and Relocation Set Aside Fund;
- h. Interior/Exterior Building Supply, LP Bodily Injury and Other Loss Set Aside Fund;
- i. Interior/Exterior Building Supply, LP Attorney Fee Settlement Fund;
- j. Knauf Attorney Fee Settlement Fund;
- k. Knauf Other Loss Settlement Fund;
- l. USG and L&W Settlement Fund; and
- m. USG and L&W Attorney Fee Settlement Fund.

Each fund was to be in separate identifiable accounts subject to the continuing jurisdiction of this Court. Esquire Bank, a financial institution doing business in New York, was suggested as the Depository Bank. Information regarding Esquire Bank and its credentials to act as the Depository Bank were submitted to the Court. The Court ordered that Esquire Bank be the Depository Bank for each QSF and to hold and invest the monies in accordance with the Orders of the Court. At no time until now has anyone expressed an objection to Esquire Bank acting or being appointed as the Depository Bank. The Court ordered statements for each account were to be issued and provided on a routine basis to Class Counsel, the Administrator (BrownGreer) and the Court Appointed CPA (Philip Garrett). Liaison Counsel monthly reviewed the statements for the security of QSF Attorney Fee Funds. In the Motion to Establish the Various Qualified Settlement Funds and to Appoint Fund Administrator and Depository Bank, Class Counsel disclosed and informed the Court that members of the Plaintiffs' Steering Committee "cumulatively own less than 5% of the issued and outstanding stock in [Esquire Bank]" and that any Member of the Plaintiffs' Steering Committee were available to the Court for additional

disclosure of information should the Court desire additional information (see footnote 1 of Rec. Doc. 17009-1].¹

The Motion to Establish the QSFs was presented to the Court following the monthly status conference on September 17, 2013 (see transcript pages 18 through 24). No opposition was filed to the motion. The Court requested representatives of Esquire Bank appear in Court to address the Esquire Bank operations and Esquire Bank's plan for safe, secure investment of the twenty-one (21) QSFs. Two (2) representatives, Andrew Sagliocca, President and CEO of Esquire Bank, and Eric Bader, Executive Vice-President and CFO of Esquire Bank, made a full report and presentation to the Court, which included a slide presentation that was filed in the record. At the presentation, an additional disclosure was made regarding outstanding shares of stock that were owned by individuals whose firms have some appointed position in the Chinese Drywall MDL and a list of those individuals and their shareholdings was provided to the Court. The Court determined that the QSFs were necessary and that it was important that QSFs be established. The Court directed Philip Garrett, the Court Appointed CPA, be placed in the loop of information about the QSFs so that Mr. Garrett could keep track of the funds and find out where they're going and how they're going out (see transcript page 19). Again, no opposition or issues were raised at that time concerning Esquire Bank. The Court acknowledged that meetings with the CPA took place on a monthly basis and a full disclosure of the QSF banking program for Esquire Bank was presented. Specifically, Mr. Sagliocca stated:

MR. SAGLIOCCA: I appreciate the time to speak to the Court and present to the Court. The QSF banking program for Esquire Bank is we have senior management involved in all QSF programs, and the goal is always preservation of principal and maintaining low fees so as not to eat into principal.

We have a very good understanding -- in-depth understanding of the QSF programs. We've worked with multiple programs, master settlement agreements; designed custom applications and investment agreements. We've worked with multiple blocking agreements and release documents; daily coordinate with various CPAs, defense attorneys, plaintiff attorneys, claims administrators; understand the release document protocol; have a full suite of online banking products; Positive Pay services, which are fraud protection services; electronic statements.

The QSF team is a 24/7 team. So any of the CPAs, claims administrators, counsel have full access to the senior management team 24 hours a day 7 days a week with our cell phones.

As I said, the goal is the preservation of principal. That's our fiduciary responsibility to make sure we do that with the claims administrator. So the products we utilize,

¹ It is believed that many lawyers representing plaintiffs in this case may also have stock ownership in Esquire Bank, but such information is confidential and has not been disclosed to movants.

the combination of, are either 100 percent FDIC insured, which are money market type products or certificate of deposit type products. We also have a very strong relationship with Federated, who manages almost half a trillion dollars in funds.

We've primarily used Treasury funds, because that's usually what the court directs, so that it's backed by the full faith and security of the government.

Rates, Your Honor, for the products are at historic lows at this time. The money market FDIC products are around 5 basis points. And the Federated products, primarily the Treasury obligation products, are around 1 basis point because of the current rates on treasuries.

THE COURT: So you invest them in funds that are secured by the United States?

MR. SAGLIOCCA: Yes. Yes.

THE COURT: Okay.

MR. SAGLIOCCA: The fees are minimal. We really charge only fees to cover administrative costs. That's not our primary generator of revenue. This is the way we work with plaintiffs' counsel and defense counsel for our other products and services. So this is more of an accommodation. So we don't focus on the fees. They mainly surround wires and the Positive Pay fraud protection, release and review, and a minimum annual fee. Our goal is to minimize those expenses, not to -- as I said, not to --

THE COURT: What are the fees based on? How do you determine the fees?

MR. SAGLIOCCA: The fees are based on market type fees. So wire fees are around \$20; Positive Pay fees, which is fraud protection, it's required, is around \$40 a month; release fees, \$20; and an annual fee of only \$100.

Every one of them, Your Honor, we've worked with the courts and the claims administrators, if either/or saw fit that these fees were too high -- as I said, they're not to generate revenue, but just to cover costs and recover costs.

We currently manage about 22 QSFs, including Avandia, Byetta, Chantix, Yaz; work with various CPAs and claims administrators; and again, always, always, always preservation of principal. Always.

The bank itself, away from using the Treasury funds and the FDIC insured funds, is a very, very safe, secure bank. Our capital position is almost double what the regulators want us to be at. We have a high level of liquidity, and virtually no -- 1

basis point of problem assets. We have one problem loan. We don't want to focus our time on managing problem loans like the rest of the industry. We're regulated by the OCC, the Office of Comptroller Currency. We also have annual audits.

The presentation, for the record, has a board of directors, the management team in it, which I won't spend any time, unless the Court wants me to.

THE COURT: All right. What's the capitalization of the bank?

MR. SAGLIOCCA: It's about 10 percent of our assets is in capital, which the minimum standards from the regulators are around 5 percent.

THE COURT: Okay. Thank you very much for being here today.

(See transcript page 20, line 10, through page 23, line 15.)

On September 9, 2013, the Court issued thirteen (13) different Orders [Rec. Docs. 17064, 17065, 17066, 17067, 17068, 17069, 17070, 17071, 17072, 17073, 17074, 17075, and 17076] and established QSFs, appointed Esquire Bank as the financial institution² as the Depository Bank to hold and invest the monies on deposit. BrownGreer was ordered to be the Administrator of the Settlement Funds. On September 9, 2013, the Court issued eight (8) additional Orders [Rec. Docs. 17077, 17078, 17079, 17080, 17081, 17082, 17083, and 17084] and established QSFs, appointed Esquire Bank as the financial institution as the Depository bank to hold and invest monies on deposit. Garretson Resolution Group was ordered to be the Administrator of the Settlement Funds for the Virginia Settlements. No appeals were taken or objections lodged to any of these Orders. For all of these QSF Orders, the Depository Bank was ordered to maintain separate accounts for each set aside and to provide separate and consolidated statements in accordance with directives and instructions set forth in the Order for investment of funds (see paragraph 6 of any of the QSF Orders. The Order was specific with instructions on how investments were to be handled. No investment or re-investment was to be made except in direct obligations of, or obligations fully guaranteed by, the United States of America or any Agency thereof. Additionally, the Court recognized in the Order the disclosure made in the motion which identified members of the Plaintiffs' Steering Committee having ownership of less than 5% of the issued and outstanding stock of Esquire Bank.

On January 29, 2016, a Motion to Combine All Attorney Fee Settlement Fund Accounts to the Knauf Attorney Fee Settlement Fund Account was filed with the Court [Rec. Doc. 20016-1]. Esquire Bank was the Depository Bank for each of the QSF Orders and held and invested money for each of the accounts. Based upon a recommendation by Philip Garrett, the Court Appointed CPA, following consultation with BrownGreer, the Court Appointed Settlement Administrator,

² For the Banner and InEx Settlements, Esquire Bank was substituted and replaced United States Bank (U.S. Bank) as the Escrow Agent.

and to promote efficiency, it was recommended that consolidation of the QSFs be made into one (1) account. Up until the filing of the Yance Motion, there were no objections to any activities in connection with any of the Qualified Settlement Funds.

At the monthly status conference on June 12, 2018, Mr. Yance addressed the Court regarding the Motion to Transfer Qualified Settlement Fund [Rec. Doc. 21339] and the Court set a briefing schedule with oral argument to take place on the motions on July 12, 2018 at 9:00 a.m. The Court further ordered “that until further notice, the Attorney Fee Qualified Settlement Fund shall be transferred from the Esquire Bank to be place[d] in the Court Registry. Counsel may contact the Court’s Financial Unit for further instructions.”

Upon receipt of the Court’s Order of June 12, 2018, Plaintiffs’ Liaison Counsel communicated with the Clerk of Court on June 13, 2018 and thereafter to assure that the transfer of funds from Esquire Bank to the Court’s Registry would progress smoothly in compliance with the Court’s Order. A further inquiry was made by Plaintiffs’ liaison Counsel to determine the current and historical amount of interest being paid for deposits of funds placed in the registry of the Court. On June 15, 2018 an email was received advising that the earnings are calculated on a daily basis and The Bureau of the Fiscal Service allocates earnings from maturing securities proportionately among the CRIS cases based on the ratio of the funds held in each individual case to the total of funds in the pool and that specific earnings amount will be provided. Further, Ms. Lange confirmed with BrownGreer and Philip A. Garrett that BrownGreer will continue to be the Administrator of the QSFs and have tax returns filed annually, as well as oversee tax deposits. On June 19, 2018, Jacob S. Woody of BrownGreer advised that Esquire Bank wired \$165,996,702.31 from the Esquire Attorney Fee QSF to the Registry of the Court and Ms. Lange confirmed receipt of the funds. On June 22, 2018 the Bank wired an additional \$7,720,567.76 to the Registry of the Court. Further, Jacob S. Woody advised that currently there are remaining funds in fully FDIC insured Certificates of Deposit at Esquire Bank that had not yet matured and that transferring these funds would have caused approximately \$15,000.00 in early redemption fees. Mr. Woody advised that he consulted with the Court about these Certificates of Deposit and was instructed to wait until maturity to transfer those funds, which will be available for transfer on or about July 13, 2018. According to Mr. Woody \$10,026,900.59 will be available on July 13, 2018 and \$6,016,449.43 will be available on June 29, 2018.

Upon personal knowledge, undersigned Affiant states Responses and Objections to Mr. Yance’s contentions:

1. Pursuant to multiple Court Orders (Docs. 17064 thru 17084) signed on September 9, 2013, this Court authorized the creation of numerous Qualified Settlement Funds appointing Esquire Bank as the Depository Bank for the QSFs upon motion to do so by Liaison Counsel Russ M. Herman and Lead Counsel Arnold Levin filed on August 19, 2013 (Doc. 17009). Numerous Attorney Fee Qualified Settlement Funds (“QSFs”) are among the QSFs established by the Court on said date.

RESPONSE:

Settlement funds were negotiated by Liaison/Lead in MDL 2047. The settlements were approved by the Court and certification proceeded. In order to effectuate the settlement provisions relating to Attorneys' Fees, the Court established thirteen (13) orders (Rec Docs 17064-17076). QSFs (Qualified Settlement Funds) to be administered by BrownGreer with Esquire Bank as a Depository. QSFs in MDL 2047 were deposited in safe and secure manner as directed by the Federal Court. The history of the Attorney Fee QSFs in MDL 2047 is more fully set out in pages 1-8 of this Declaration.

2. As of February 1, 2016, the Court ordered all the Attorney Fee QSFs to be consolidated into one Attorney Fee QSF (Doc. 20022).

RESPONSE:

On January 29, 2016, all QSFs were consolidated. (Rec Doc 216-1). Monthly reports of the Knauf Attorney Fee Fund, QSF investments and particulars were forwarded by Esquire Bank to Russ M. Herman, BrownGreer, represented by Jacob Woody, Esq., and Phillip Garrett, Court-appointed CPA, for review.

3. Esquire Bank should no longer serve as the Depository Bank for the Attorney Fee QSF for multiple reasons.

RESPONSE:

Esquire Bank successfully complied with the Directives of the Court. For almost four years, the Esquire Bank MDL 2047 QSF Knauf Attorney Fee Fund followed strictly the Orders to preserve the Fund in safe and secure manner. . Esquire Bank fully cooperated with Jacob Woody, Esq., and Phillip Garrett, CPA. Esquire Bank was responsive to all requests of the Court-appointed Administrator and the Court-appointed CPA. Until May 2018, there was no objection by any participant in the MDL, or by the Administrator, or the CPA, to the way in which QSF funds were handled by Esquire Bank, or to the full detailed reports that the Bank issued monthly.

4. First, as an initial major concern, Esquire Bank is unreasonably small in relation to the approximately 200 million dollars of attorney fees deposited therein, and extraordinarily small in relation to the dozens or hundreds of banks in existence that could provide the service.

RESPONSE:

Esquire Bank's CET1 Ratio (Common Equity Tier 1 Capital ratio) is higher than any bank Yance refers to, including JP Morgan, Regions, Iberia, Hancock/Whitney, and Home Bank. The CET1 Ratio is a measurement of a bank's capital, utilized by regulators and investors because it shows how well a bank can withstand financial stress and remain solvent. Esquire Bank has been regularly reviewed by the OCC, FRB of New York and its independent public accounting firm, Crowe Horwath, LLP.

5. According to the most recent Form 10-K Annual Report filed with the Securities and Exchange Commission the TOTAL deposits reported by Esquire Bank on its balance sheet equal a mere 448.4 million dollars. (See Ex. A- Annual Report p. 39- note all referenced page numbers to all exhibits herein are the page numbers printed at the bottom of each page, which often differ from the page of the PDF file itself). The undersigned counsel has had a difficult time finding any other bank with SEC filings showing total deposit figures that low.

RESPONSE:

There is a substantial difference between "On balance sheet deposits" and "Off balance sheet deposits" (predominantly represented by QSF's).

Large Banks could provide a service if they appeared before the Court and, in addition to Size of Deposits, could explain the \$6 billion in fines (see attached Exhibit "A") which have been levied against them for fixing LIBOR RATES and other violations of Sarbanes-Oxley Act of 2002. These same banks have contributed to lobbying groups who propose limitations on MDLs, Class Actions, Judgments, Plaintiffs' Contingent Fees and other "Tort Deforms".

6. Just by way of comparison, a large bank like JP Morgan reports total deposits of 1.4 trillion dollars, and is thus three thousand times larger than Esquire Bank. (Ex. B- Excerpt from JP Morgan Annual Report)

RESPONSE:

JP Morgan and six (6) of the other largest USA banks had substantial financial relationships with CNBM and the Bank of China. CNBM is a Defendant in MDL 2047. For a period of time, JP Morgan held thousands of H shares as a shareholder in CNBM, as evidenced by CNBM's published reports. JP Morgan has been censured by Federal authorities and in June 2018 agreed to pay \$65 million in fines (see attached Exhibit "A"). The critical activities of JP Morgan occurred between 2007 and 2012 at a time when JP Morgan was heavily invested in Defendants in this litigation. During the period, there were a number of U.S. bank failures. In the ten (10) years in which I have been a stockholder of Esquire Bank, there has never

been a violation of Federal laws, and Esquire Bank has been regularly and consistently reviewed by the OCC and other Federal authorities.

7. A large regional bank in the southeast such as Regions Bank reports total deposits of 96 billion dollars and is thus 213 times larger than Esquire Bank (Ex. C- Excerpt from Regions Annual Report).

RESPONSE:

Regions' "CETI" is 12.92%, and Esquire Bank's "CETI" is considerably higher at 17.66%. The banks that failed in the 2008-2012-time frame were bigger than Regions Bank. There is no indication that Regions Bank was or is an experienced QSF Depository of Settlement Funds or Attorney Fee Funds. Esquire Bank's history of successful management of \$2 billion in QSF funds is an accurate measure of Esquire's expertise.

8. Mid-size regional banks well known in Louisiana, Mississippi and Alabama such as Iberia Bank and Hancock/Whitney Bank report total deposits of \$21.4 billion dollars and \$20.8 billion dollars respectively, and are thus 46 times larger than Esquire Bank (Ex. D- Excerpt from Iberia Annual Report and Ex. E- Excerpt from Hancock/Whitney Annual Report).

RESPONSE:

Iberia Bank recently followed an example set by Esquire Bank. While Counsel refers to "brick and mortar" as a mainstay, he again demonstrates a conclusion not reflected in reality. During 2018, Iberia Bank closed 26 of its "brick and mortar" branches (see attached Exhibit "B"). At least ten (10) years ago, Esquire Bank was at the Vanguard of turning away from "brick and mortar" branches in this technological age.

As to assertions about Hancock/Whitney and its size of deposits, again Counsel the comparison Counsel makes to Hancock/Whitney Bank is irrelevant. The Whitney Bank "CETI" is 10.63 whereas Esquire Bank is 7 points to the better.

9. Even a small local bank such as Home Bank that services South Louisiana and Western Mississippi reports total deposits of 1.8 billion dollars and is thus 4 times larger than Esquire Bank (Ex. F- Excerpt from Home Bank Annual Report).

RESPONSE:

Again, the assertion is irrelevant. Home Bank's "CETI" ratio is lower than is Esquire Bank's. Counsel Opposite has not demonstrated that Home Bank has any experience at all in managing QSFs.

10. When you couple the eye-opening size comparison between Esquire Bank and other banks with the fact that the Attorney Fee QSF being held and managed there is extraordinarily large compared to the overall size of the bank as a whole (a number that is 44% the size of the

total deposits reported on its balance sheet) it is clear that Esquire Bank is not an appropriate bank to hold and/or manage the QSF regardless of whether or not the QSF funds are being held via an on or off balance sheet Insured Cash Sweep (ICS) or other similar vehicle.

RESPONSE:

Again, Counsel attempts to compare apples to oranges.

11. However, the troubling analysis does not stop at the size of the bank. Esquire Bank is far from a traditional bank. Despite the fact that it holds itself out as a “national bank,” it only has one operating branch in the entire nation (located in Garden City, NY). (Ex. A- pp. 8, 12). It is a bank that was started by lawyers, for lawyers and is founded upon new- age financing instruments such as attorney case cost financing, working lines of credit for attorneys, attorney fee advances, and other loan instruments, most of which are secured in large part by attorney case inventories and undistributed settlement funds. (Ex. A- intro pp.1-2 body pp. 1-36). Esquire Bank, by its own admission has a very limited track record of success and recognizes this and its new-age attorney financing business model as significant risk factors affecting its chances to succeed as a bank in the future. (Ex A- pp. 21-22).

RESPONSE:

More than ten (10) years ago, Esquire Bank was organized with the goal of becoming a Federally-regulated National Bank. Early in the bank’s history, a portion of its focus was on the designed application of unique vehicles for Contingent Fee Attorneys and their Clients.

As early as 1991, Leadership in the Plaintiff Trial Bar was particularly concerned about the unfavorable treatment by Large Banks that did not understand Plaintiff litigation (Plaintiff single case advocacy and Plaintiff complex litigation in Consumer Class actions). The subject was highlighted in numerous leadership discussions in ATLA (now AAJ). By 2008, there were complaints that traditional banks were not accepting Contingent Fee-settled cases as sufficient collateral for lines of credit, and that the interest rates charged to their consumer clients on guaranteed loans had escalated. Discussions were led by ATLA Presidents, Officers and by Chief Executive Officer Tom Henderson, Esq., now deceased. Those discussions led to various recommendations for the creation or adoption of financial institutions that would treat Plaintiffs and Small Businesses, and the Lawyers who represented them, in a fair and even-handed approach. About ten (10) years ago, I was approached by Tom Henderson, Esq., acting on information he gathered from ATLA past presidents, who requested that I attend an Esquire Bank Board meeting.

Meanwhile, the so-called “Tort Reform” contributors - Large Banks, Big Tobacco, Big Pharma and the Oil Industry have attempted, somewhat successfully, to limit Plaintiffs’ access to the Courts, with limitations on Fair Recoveries and Jury Trials. Esquire Bank contributes its resources to organizations that support Trials by Jury and Citizens’ access to

the Courts. I am proud of my active participation in Esquire Bank. I am proud of its direction. I am proud that Tom Henderson, Esq., recommended that I be interviewed and urged me to accept a Board appointment to Esquire Bank.

Counsel's supposition is that Attorney inventories, personal guarantees, settled cases, and other security are insufficient for bank loans. Counsel is not aware that loans at Esquire Bank and insider loans, including those to Directors, are reviewed by Esquire Bank's primary regulator, the OCC, a Bureau of the U.S. Department of the Treasury.

Counsel says that Esquire Bank was required to report risks in its annual reports and public offerings. Of course, that is true and is done. As evidenced by the history of Large Banks in the past ten (10) years, those Large Banks, which are also required to report risks, have much greater risks than Esquire Bank, as demonstrated by their publicly reported negligence and willful avoidance of Federal laws which govern banking activities. Esquire Bank, over a 10-year period, has a track record which is admirable, and that track record and frequent examinations and reviews by Federal authorities have resulted in a successful public offering.

12. While the financing services Esquire Bank offers may be beneficial to the plaintiff's bar in general, a bank with such a modernistic approach to banking and lack of track record is not an appropriate place to entrust such a large amount of funds earned by and belonging to such a large number of people. A traditional bank with reasonable size and long track record would be much more appropriate under the circumstances.

RESPONSE:

Counsel states that Esquire Bank's financing services are beneficial to the Plaintiff's Bar. Esquire Bank has been successful, without criticism, by any Court or Federal agency, in managing \$2 billion of QSF funds in safe, secure and Federally-guaranteed products.

13. Unfortunately, there also exists multi-faceted conflicts of interest pertaining to Esquire Bank continuing to serve as the Depository Bank.

RESPONSE:

The statement that there exists "multi-faceted conflicts of interest" pertaining to Esquire Bank's continuing to serve as a Depository Bank is a statement not supported by facts. The PSC members who own or owned stock in Esquire Bank were disclosed to Judge Eldon Fallon, at inception, and the actual total was less than 5% of the outstanding stock. Secondly, Counsel ignores the careful and watchful eye of several Federal agencies; the reports monthly to BrownGreer, and also to Phillip Garrett, CPA. Counsel ignores that the Court found no conflict of interest after full disclosure of Liaison Counsel of his relationship with Esquire Bank.

14. As this Court is already aware, Liaison Counsel in this litigation and Co-Chair of the Fee Committee, Russ Herman, serves on the Board of Directors of Esquire Bank. In fact, Mr.

Herman is one of the longest standing Members of the Board of Directors of Esquire Bank and has been serving since shortly after the bank's creation. Mr. Herman is a significant shareholder of Esquire Bank owning a stake therein currently valued at more than 1.4 million dollars. (Ex. G- Esquire Schedule 14A Proxy Statement pp. 9-19)

RESPONSE:

I currently own approximately 0.8% of the outstanding common stock of Esquire Financial Holdings, Inc. or 62,412 shares, which amount includes 2,500 shares of restricted stock and 14,892 exercisable options to purchase shares of common stock of Esquire Financial Holdings, Inc. Stock options vest over a period of years and are exercised with the personal funds of the grantee. The weighted average price for Mr. Herman to exercise his 14,892 options is \$12.50 per share. Accordingly, I would need to pay Esquire Financial Holdings, Inc. approximately \$186,150 in order to exercise those options. I also received 2,500 shares of restricted common stock of Esquire Financial Holdings, Inc. in a single grant which vests in equal installments over a three-year period beginning January 23, 2022 and ending January 23, 2024. I made full disclosure of my relationship with and ownership in Esquire Financial Holdings, Inc. and Esquire Bank. Transcript of September 17, 2013 at pages 20-21 indicates full disclosure and response to all questions. BrownGreer, as Court-appointed Administrator, also made full disclosure of all processes on pages 8-16. The Court directed at that time that the Court-appointed CPA, Phil Garrett be involved in the process. The hearing transcript is attached.

15. At the time Esquire Bank was appointed by this Court as the Depository Bank in 2013, it was a privately held company with limited publicly available financial and operating information. However, just this past summer (June 2017), Esquire Bank's holding company engaged in an initial public offering ("IPO") and now the stock is publicly traded on the Nasdaq stock exchange under the Ticker symbol "ESQ". (Ex. H- Esquire IPO Prospectus).

RESPONSE:

Because of prudent and careful management decisions for ten (10) years and oversight by the OCC and FRB of New York and also the work of Esquire Bank's Strategic Oversight Committee, Esquire Bank's parent Holding Company, Esquire Financial Holdings, Inc. successfully achieved a listing on the NASDAQ stock exchange. Counsel, on the one hand, decries Esquire Bank as not successful, but on the other hand points to its success in June of 2017.

16. As can be seen from its numerous SEC filings associated with the IPO, Esquire Bank only had a mere 290 million dollars in deposits reported on its balance sheet in 2014 (the year after Esquire Bank was appointed by the Court in this case) and 383 million dollars in deposits at the time of the IPO. (Ex. H- p. 10).

RESPONSE:

Again, Learned Counsel Opposite's "dollars in deposit" don't relate to the QSFs which were safe, secure and guaranteed by the Federal government as directed by the Court.

17. The Attorney Fee QSF deposited with Esquire Bank appears to have been a major factor in marketing their stock for sale to the public in their IPO. If the entire Attorney Fee QSF was placed in "on-balance sheet" deposit accounts at the time of the IPO, the QSF accounted for approximately 51% of the total deposits advertised to the public. (Ex. H- p.10). If the entire Attorney Fee QSF was put in "off-balance sheet" sweep accounts with Esquire, the QSF accounted for 99.5% of their off-balance sheet sweeps they highlighted in their "Investment Highlights" section of their IPO Free Writing Prospectus presentation and confirmed in their full Prospectus. (Ex. I- Esquire IPO Free Writing Prospectus- p. 3, see also Ex. H- p.74). If the QSF is comprised of a combination of both on-balance sheet and off-balance sheet accounts, the net effect is still the same- the Attorney Fee QSF clearly seems to have been an extraordinarily major component of the Bank's overall financial picture at the time they advertised their stock for sale to the public.

RESPONSE:

NO QSF FUNDS HAVE BEEN USED FOR COLLATERAL FOR LOANS. One factor in marketing, is the number of unique products which the Bank has developed for offer to Contingency Law Claimants, and their lawyers.

The contention that an entire Attorney Fee QSF was placed in On-Balance Sheet and was a "major factor in marketing their stock for sale" advertised to the public is not true. It is true that the reputations of Attorneys and others who serve on the Board of Directors of Esquire Bank and the strong management team at Esquire are factors in marketing common stock for sale to the public. None of the Director/Attorneys sits on the Strategic Oversight Committee, the Loan Committee, the Governance Committee, or the Audit Committee. None of the Attorney/Directors of Esquire Bank sit on any committee directing the investment of funds, loans, or Mergers and Acquisitions. (The Plaintiff Attorney/Directors of Esquire Bank account for less than 25% of the Board of Directors.) What "appearance" Counsel factors in marketing is incorrect.

18. It is worth pointing out, Esquire Bank appears to have paid a near zero interest rate on the subject \$200 million dollar QSF while holding it for more than four years.

RESPONSE:

Esquire Bank has fully explained the interest paid on QSFs in safe, secure funds which were reported monthly. Until late 2016, very low interest rates nationally were reflective of interest rates on the funds. On September 17, 2013, Esquire Bank appeared and through its President and CEO Andrew Sagliocca, in open Court, stated that rates were at historic lows.

The interest rates in the two (2) Federally-guaranteed funds were particularly flat at that time; and began to rise nationally in 2016. By mid-2017, interest rates on the Federally-guaranteed funds began to rise mirroring a rise in interest rates across the board nationally.

19. The majority of the subject \$200 million was paid into Court near the end of 2013, and this Court ordered the Clerk of Court to fund the QSFs in January of 2014 (Doc. 17398), with a more specific funding clarification in February 2014 (Doc. 17426).

RESPONSE:

The recitation does not include the full history of the Court's original Orders. For reference, see our Responses to Number 1 and Number 2.

20. On June 6, 2016, Court-appointed CPA, Phillip Garret signed an affidavit attaching an "Attorney Fee Reconciliation" showing that as of February 29, 2016, the total interest that had been earned by the deposited attorney fees in an entire two-year period totaled a mere \$83,711.98. (Ex. J- Garrett Attorney Fee Reconciliation printed from Doc. 20290-5 p. 18). This equates to an approximate annual percentage rate of 0.02%. Although Esquire apparently only paid 0.02% on the Attorney Fee QSFs, it appears to have paid 0.50% on other QSFs in this litigation- 25 times the rate it paid on the Attorney Fee QSFs. (See Esquire Monthly Statement entitled "QSF Money Market" dated 9-30-16 for account # *****82). At 0.50% the Attorney fee QSFs would have earned approximately \$2 million dollars instead of \$87,711.98 during that time frame, and would have earned around \$4 million dollars by now.

RESPONSE:

The affidavit of Phillip Garrett, CPA, of February 29, 2016, is correct as to the figure of \$83,711.98 interest paid on the QSF at issue. However, the statement made to interest paid on other Attorney Fee QSFs is a misstatement and misconstruction by Mr. Yance. All QSFs were invested in the same funds bearing the same interest. The "QSF Money Market" Fund that paid a higher interest rate is a totally different issue. That deposit was for approximately \$7 million of potential fees, or funds for prosecuting further, the Taishan Defendants in litigation. The Court ordered that the \$10 million that had been designated previously for costs, the balance of which \$7 million should be returned, and that \$7 million, to be the subject of future determination. It was prudently deposited by Esquire Bank and did not have and was not a part of, the Attorney Fee QSF. This amount was given to a "Hold Back" account paying a higher rate and was routinely reported to BrownGreer and Phillip Garrett, CPA on monthly statements³.

21. It is also worth noting, as a comparison, that the Treasury Bill rate on a 5 year T-Bill during

³ See Court Orders [Rec Docs 19488, 20896, 20922, 20930, 20932 and 21027].

that time period averaged around 1.5%- therefore 75 times higher than the interest rate being earned at Esquire Bank. At 1.5%, the Attorney Fee QSFs would have earned over 11 million dollars by now.

RESPONSE:

The Treasury bill rate on a 5-year Treasury bill is not a proper comparison, but a 1-year Treasury bill rate may be, although Liaison/Lead has not tracked Treasury bill rates on a 1-year or 5-year basis.

Esquire Banks responsibility was to preserve principal and maintain liquidity. Therefore, funds were invested in short-term Treasury money market funds and/or FDIC insured products. Esquire was not directed to invest in long term Treasuries, which creates potential principal risk as interest rates rise.

22. In its Initial Public Offering prospectus, Esquire boasted about its very low “cost of deposits”, or to put it in layman’s terms- Esquire doesn’t pay much interest on deposits. It also very clearly boasted about its business model and how the legal settlement process and the delays inherent therein provide multiple “loan and deposit opportunities” and how those opportunities are “Funded with Core Low Cost Settlement Escrow and Commercial Operating Deposits from law firms, claims administrators, lien resolution firms, courts, etc.” (Ex. I- pp. 4-16, Ex. H- pp. 68-81, see also Ex. A pp. 3-8).

RESPONSE:

It is true that Esquire Bank is funded in part by Core Low-Cost Settlement Escrows, Commercial Operating Deposits from Law Firms, Claims Administrators, Lien Resolution Firms, Courts, IOLTA, and similar sources. However, QSFs devoted to preservation of principal and liquidity are not Core funds of the Bank. Esquire Bank does have a very special business model, and a number of financial institutions have attempted to copy the unique services. Esquire Bank has products not available by other firms and financial institutions. Little, if any, of the Core value relates to QSF Funds. Esquire Bank will suffer no material losses as a result of shifting the MDL QSF Funds at issue to the Clerk of Court fund.

23. In fact, it has come to the undersigned counsel’s attention that Esquire Bank, while paying a near zero interest rate on the Attorney Fee QSFs in this case (0.02%), is actively lending money to attorneys who one day expect to receive a portion of those attorney fees in this case, in the form of loans, attorney fee advances, attorney lines of credit and/or other financing instruments secured by each borrowing attorney’s portion of the very cash in the very QSFs this Court appointed Esquire to hold and manage. Esquire is typically charging these attorneys approximately “prime plus two and a half” (i.e. around 7%) on these instruments.

RESPONSE:

Counsel utilizes “gossip” from undisclosed persons, and Counsel has other references to vague but unnamed sources. Counsel’s affirmed position is that he has no interest in the Knauf Attorney Fee Fund for Common Benefit work. Even the ruminations regarding loans to lawyers is incorrect. I don’t know what has come to his attention. I’m not privy to investments of lawyers or loans to lawyers. At one time, some Fee opponents in MDL 2047 were Stockholders in Esquire Bank, but I have no knowledge and am not allowed to make inquiries as to whether they still own stock, have increased or sold their stock. The one exception is reflected in Arnold Levin’s voluntary Affidavit, in which he states a stock investment but no loan by him or his firm. I have personally borrowed money from Esquire Bank at market rates and have received no special treatment. The loans are subject to Note: 012 CFR, Part 215, and have been reviewed annually by the OCC, the Loan Committee of Esquire Bank and outside independent auditors.

Counsel has no cases other than the eleven (11) Knauf cases. All of his clients have been fully paid for their losses due to defective Knauf drywall. At some point, Counsel will be paid a fee on the \$1,965,753 his clients recovered. Herman Herman & Katz will be paid a fee on the \$15,800,902 recovered its approximately 400 contract clients. The Herman Herman & Katz Attorney fees on its Contract clients will be paid in the exact proportion that Counsel and all other Attorneys are paid.

Counsel reports NO common benefit fees due him. In other words, he did not achieve one hour of Common Benefit, yet payment was made to his Knauf clients. On the other hand, Herman Herman & Katz has registered and been approved, by Phillip Garrett, CPA, in accord with the Court’s direction, 40,000 plus Common Benefit hours before December 31, 2013. Levin Fishbein has registered 40,000 plus Common Benefit hours before December 31, 2013. Presumably, at some point, Herman Herman & Katz and Levin Fishbein will receive a Common Benefit Fee and a Contract fee from the Knauf Attorney Fee Fund. The record in the MDL 2047 case reflects that Counsel participated actively in Satellite Fee Litigation, which included Document Production, Depositions and Special Hearings.

24. Consequently, whenever the 200 million dollars of attorney fees are finally paid in this case, not only does it appear Esquire will be parting with a large portion of its business just by the mere size of the QSF in relation to the bank as a whole, it appears it will be parting with this very attractive interest rate spread on these unique cash-secured loans. Clearly, Esquire has a very significant financial incentive to hold onto the cash in the QSFs as long as possible.

RESPONSE:

I disagree with Counsel’s argument. The \$200 million QSF, which Esquire Bank once superintended, is not a “large portion of its business”. In terms of assets, Esquire Bank has

fully disclosed in its Affidavit its position. Further, Counsel's contentions may become moot because the Fund has been transferred from Esquire Bank to the Clerk of Court.

25. This incentive to hold on to this 200 million-dollar QSF appears to be magnified by the fact that Esquire just recently held its initial public offering at \$14 per share and it is now trading at around \$24 per share (an approximately 71% gain in stock price since the IPO less than a year ago). (Ex. H p.1 and see publicly available stock price as of today). Although any depository bank appointed by any court would likely rather hold onto a \$200 million dollar deposit rather than see it disbursed, the situation with Esquire is exceedingly different. It would only make sense that Esquire would be extraordinarily eager to hold onto this QSF as long as possible since a) the QSF is so large in relation to the overall size of the business as advertised to investors in the IPO and Annual Report, b) it is engaged in unique attorney lending activity secured by the cash in the QSF, and thus c) the concern about an adverse effect on the overall financial picture and thus the stock price of the bank once the QSF is paid out appears much greater than it would be if the QSF were deposited with a much larger bank with a much longer track record, a more traditional banking business model and without the unique attorney loans against the cash in the QSFs it were appointed by the Court to hold.

RESPONSE:

Counsel has used his own "magnification" in an illustration that is irrelevant to the current issue. I have no further comment about "Larger Banks." No QSF Court-ordered fund can be held by any QSF Depository beyond what the Court orders. It is probable that Counsel Opposite misapprehends the processes by which Federal Judges manage or choose to manage QSF Funds in an MDL or any other case. Liaison/Lead, PSC member, or other Attorney should not act contrary to the Court's orders. Additionally, any sums due Attorneys claiming Fees are subject to a Final Judgment by the Presiding Judge and Appellate Courts, if any.

26. One natural defensive response to all of this might be to say "it doesn't matter what a depository bank *wants* when it comes to how long it holds an attorney fee QSF, because when a court orders the bank to disburse it, it must disburse the funds regardless of the bank's wishes." Unfortunately, this is where the conflict gets deeper.

RESPONSE:

I disagree with Counsel's argument that "this is where the conflict gets deeper." There is no conflict to begin with. I am not certain what Counsel Opposite means here: On the one hand he seems to understand that the QSF is subject to a Court Order for dispersal, and on the other, implies that there is some ethical conflict, even though the Depository Bank, the Court-appointed CPA, the Court-appointed Administrator and Liaison/Lead follow the strict Orders of the Court.

27. Esquire Bank, in its IPO and Annual Report has been quite brazen about the fact that there

are “well-known” mass tort litigators on its board of directors and that Esquire intends to continue to “leverage” those contacts to attract deposits- including landing more mass tort business and scoring more court-appointed settlement deposits (Ex. I- pp. 4, 5, 6, 7, 10, 12, 16, Ex. H- p. 3, 6, 69, 70, 74, 81, Ex A- pp. 3-11).

RESPONSE:

The Contingency Fee Plaintiff lawyers who serve as Directors of Esquire Bank use their reputations for honesty, for achievement, their peer reviewed credentials, and networks, developed over a number of years, to answer questions from potential clients about the unique opportunities for Plaintiff lawyers and their Clients available at Esquire Bank. These opportunities are Esquire Banks unique products and services to the Plaintiff Bar and are examined at least annually by the OCC. Of the thirteen directors of Esquire Bank, only three are plaintiff attorneys.

28. It clearly was not happenstance that Russ Herman was serving on the Board of Directors at the time he asked this Court to appoint Esquire Bank as the Depository Bank in this case. Instead, that move fits squarely within Esquire Bank’s advertised business strategy.

RESPONSE:

I began serving on the Board of Esquire Bank, seven (7) years before the Court ordered QSF deposits for Knauf Attorney Fee Funds. Liaison Counsel and Lead Counsel appeared in open Court disclosing any stockholdings they had in recommending Esquire Bank as a Depository. Counsel claims that the Order of QSF deposits by Judge Eldon Fallon fits squarely within Esquire Bank’s strategy. One can form no logical connection with Esquire Bank’s strategy and the Court’s decisions. There is no conflict between the Orders of a United States District Judge requiring a Depository Bank to issue monthly reports to a Court-appointed Claims Administrator, a Court-appointed CPA and a Liaison Counsel. There is no conflict between a Court-appointed Liaison or Lead, after their full disclosure of a relationship with a Depository Bank and of which the Court was apprised. The connection is a false analogy.

29. Russ Herman, as Liaison Counsel in this litigation and Co-Chair of the Fee Committee controls to a large degree the speed with which the attorney fee phase of this case proceeds. As a long-standing member of the Esquire Bank Board of Directors being paid approximately fifty to one hundred thousand dollars per year in salary and stock options to serve, Mr. Herman has a significant interest in seeing to it that Esquire is profitable and maintains and/or grows its stock price. (Ex. H- p. 105, Ex. G- p.40). This is especially true since the IPO took place less than a year ago and experienced a 71% jump in price. As a 1.4 million dollar shareholder, he has a significant personal financial incentive to see Esquire Bank prosper and maintain and/or grow its stock price. (see Ex. G, p.9- note the # of Herman shares and multiply by current stock price).

RESPONSE:

Over a ten year period, I have earned a total taxable receipt of \$3,360 in net fees and was reimbursed \$112,460.25 in expenses for service as a Director. I have not received any salary. I have paid for my own shares of stock with my after-tax personal funds. I have not borrowed funds to pay for stock. I have only a 0.8% stock position. I do not sit on any Esquire Bank Board Committee relating to Loans, Strategy, Audits, Stock Options, Listings on Public Stock Exchanges, or Deposit Investments.

30. Even assuming Mr. Herman has not allowed his director-related fiduciary duties, responsibilities, or feelings of obligation to Esquire stockholders, or his own personal financial interests as an Esquire stockholder affect his decisions regarding the speed with which he pushes the attorney fee process forward in this matter, there is clearly a conflict of interest that does exist, particularly given the unique circumstances surrounding Esquire Bank as described above. This conflict of interest should be eliminated immediately, and Mr. Herman should be the first one in line asking for it to be eliminated so as to avoid any APPEARANCE of impropriety.

RESPONSE:

The overarching theme of Counsel's argument is that somehow Liaison/Lead made decisions regarding the speed with which the Attorney Fee process would go forward in this matter, and that they were uniquely able to delay Fee payments for some undescribed advantage. The commentary of Counsel has posited no "appearance of impropriety" of Liaison/Lead or Esquire Bank or Phillip Garrett, CPA, or Jacob Woody, ESQ. Esquire bank and Liaison / Lead follow the orders of the Court.

31. This is particularly true given the fact that Mr. Herman has been the subject of court filings by other counsel in this litigation regarding allegedly inexplicable delays in the Fee Committee Recommendation process. (Docs. 21319 and 21325). The undersigned has also been a party to conversations with other counsel in this litigation during which there has been lots of pondering and bewilderment about why it seems Mr. Herman and Mr. Levin seem disinterested in and even resistant to moving the attorney fee issue to final resolution in this case. Moreover, it is undisputed that many if not most attorneys have been working on this case for nine (9) years; the case settled six (6) years ago; the 200 million dollars in attorney fees have been sitting in the QSF accounts for more than four (4) years while many, if not an "overwhelming most" clients whose cases derived these attorney fees have been fully paid, remediated, and compensated pursuant to the various settlement agreements for much of that entire four-year period, yet we, the attorneys remain unpaid.

RESPONSE:

While Counsel argues that "Mr. Herman has been the subject of other Counsel's filings in

this litigation regardinginexplicable delays”, he again alludes to hearsay without naming the authors and the particular allegations. One should not be surprised by Counsel’s reliance on unattributed “gossip” and “hearsay” and of unnamed others from Court filings. The “hearsay” and “gossip” on which Counsel relies, and his reliance on conversations with other unidentified Counsel in this litigation. He then attacks Liaison/Lead as resistant to moving the Attorney Fee issue to final resolution. Mr. Yance has misplaced angst as he attributes a delay to Liaison/Lead in the payment of the \$200 million Fee Fund.

It is true that Mr. Yance’s clients were fully paid in the Knauf settlements and he has no Common Benefit claim. He complains that Attorneys remain unpaid. He evidently does not accept the Court’s Directive to Liaison/Lead to act immediately in Discovery and Bellwether Trials, and then to negotiate as quickly and as reasonably as possible, settlements with the Knauf Defendants, and the Global Defendants, and only then to negotiate Attorney Fees in each settlement.

Counsel quarrels with the Court’s directives to Liaison/Lead that the homeowners injured by the Knauf Defendants will be paid first, before the process to determine a division of the Fee Fund between Contracts with Claimants and Common Benefit Attorney Fee Claimants. Counsel has ignored the Court’s PTOs and the process of delay in which Counsel was himself an active participant. It is an empirical fact that Counsel’s Clients were paid without any substantial effort by Counsel in Discovery, Briefing, Motions, Appeals, Bellwether Trials, Pretrial preparation and Status Conferences. Counsel does not have a Common Benefit claim for fees precisely because he did no substantive work and yet the process achieved payments to all of his eleven (11) clients.

32. Finally, if Mr. Herman, Mr. Levin, and/or their firms have participated in, benefitted from, received funds from, and/or executed any loans, attorney fee advances, attorney lines of credit and/or other financing instruments provided to them by Esquire Bank and/or any other bank or financial institution that is holding or has ever held any of the settlement proceeds, attorney fees, or QSFs in this action or any other mass tort or class action in which they have had a leadership role, they should be required to disclose to the Court and all counsel in this litigation the complete terms and conditions of such instruments and/or arrangements including but not limited to interest rates, principal amounts, credit limits, balances owed, collateral, and all other terms and conditions.

REPOSE:

Denied. There is not now nor has there ever been any evidence of unethical conduct by Liaison/Lead, Esquire Bank, Phillip Garrett, CPA, and Jacob Woody, Esq., to delay payment from the MDL 2047 Knauf Attorney Fee Fund.

Despite Counsel’s claims, there is not a scintilla of evidence of any act or failure to act of Liaison/Lead.

33. The payment of attorney fees in this case has been plagued by an inordinate amount of delay while the funds are earning a near zero return. The circumstances and conflicts surrounding Esquire Bank have no place in any legal matter, particularly one as plagued with delay as this one.

RESPONSE:

It is and was always Liaison/Lead's direction to achieve a fair and reasonable settlement with Knauf and Global Defendants with deliberate and continuous actions. There is no special benefit to Herman Herman & Katz and Levin Fishbein to not expedite fees from the QSF. Liaison/Lead are required to follow the Court's directives. The delays of which Counsel Opposite complains are due to payout process for over 8,000 homeowners and business owners who have been thrice subjected to extraordinary losses.

It is JUST that injured families who lost their homes and businesses due to defective Chinese drywall manufactured, marketed and shipped to the Gulf States and Virginia should be compensated for losses sustained, before lawyers receive Fees. It is also just that those who manufactured, shipped and marketed defective drywall in the United States should be held accountable FIRST to those who have suffered which is the directive of the Court. When one considers the result of litigation against Knauf and the Global Defendants, the claims processing of 8,000 plus claims proceeded with speed and acuity as a result of adherence to the Court's directives; the Claims Administrator, Brown/Greer; Phillip Garrett, Court-appointed CPA; "Pro Se", Court-appointed Robert Johnston, Court-appointed Ombudsman, Louis Velez, and others.

Fee considerations for Contract Lawyers and those claiming Common Benefit Fees could not proceed until the Court determined that a sufficient number of claims of those damaged Citizens had been processed. Attorney Fee payment delays for the most part, are due to the claims processing of 8,000 plus claims and the extensive Satellite litigation.

Liaison/Lead, Jacob Woody, Esq., and Esquire Bank, moved with deliberate speed to implement Judge Eldon Fallon's Order directing that QSF funds be transferred from Esquire Bank to the Clerk of Court. Because Liaison/Lead were unaware of the particulars of the Clerk of Court's Fund administrative mechanism, inquiries were made so that the PSC and Fee Claimants could be advised of the processes and particulars of the fund. The Court's directive to deposit the Knauf Attorney Fee QSFs with the Clerk of Court has been complied with by Liaison/Lead and Esquire Bank.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of June, 2018.



RUSS M. HERMAN

EXHIBIT

A

6/19/18

THE WALL STREET JOURNAL. 7

BANKING & FINANCE

JPMorgan Fined Over Benchmark

By GABRIEL T. RUBIN

WASHINGTON—JPMorgan Chase & Co. agreed to pay a \$65 million fine to settle claims that it tried to manipulate a global interest-rate benchmark, the latest fine levied by U.S. regulators to punish crisis-era manipulation schemes by large banks.

The Commodity Futures Trading Commission said JPMorgan employees between 2007 and 2012 made false re-

ports and attempted to manipulate the U.S. Dollar International Swaps and Derivatives Association Fix, a benchmark that is referenced in many derivatives products.

The regulator found that during that five-year period, employees of JPMorgan attempted to manipulate the reference rate by "bidding, offering, and executing transactions in targeted interest-rate products" around the time of day when the reference rate

was fixed.

The settlement with the CFTC makes JPMorgan the latest major bank to settle charges of alleged interest-rate manipulation in recent years, as the CFTC noted in its announcement.

"This matter is one in a series of CFTC actions that clearly demonstrates the Commission's unrelenting commitment to root out manipulation from our markets and to protect those who rely

on the integrity of critical financial benchmarks," CFTC Enforcement Director James McDonald said in a statement.

"We're pleased to have this matter behind us," a JPMorgan spokeswoman said. The bank didn't admit or deny wrongdoing.

The CFTC has imposed around \$6 billion in penalties against banks and brokers to address rigging of benchmarks such as Libor and ISDAFIX.



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Banks in Louisiana turn away from traditional branches as digital shift takes hold

BY SAM KARLIN | SKARLIN@THEADVOCATE.COM JUN 3, 2018 - 12:30 AM



Newer Regions Bank branches are a departure from the traditional teller lines. spokesman Jeremy King likens them to Apple's retail stores, where staff greet customers as they come in the door and can handle a variety of needs.

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Sam Karlin

Banks in Louisiana are closing branches at the fastest rate in decades, in line with a dramatic shift in the U.S. financial sector toward digital offerings and away from traditional physical locations.

FDIC-insured commercial banks in 2017 had the fewest number of branches in Louisiana since 2005, according to data from the Federal Deposit Insurance Corp., and had declined for five of the previous six years.

That trend does not appear to be abating. Bank executives say consumers are increasingly demanding easier ways to do business — often by phone or machine — and several banks have closed branches this year. Other forces, like the unrelenting consolidation of financial institutions in Louisiana, also are driving the trend.

“I don’t think we’ve hit the inflection point,” said Ben Marmande, president of IberiaBank’s Baton Rouge market. “And when we do, it’s going to be pretty radical.”

Iberia, the largest bank headquartered in Louisiana, announced in May it would close 22 locations regionally, including seven in Louisiana, citing a long-term strategy of becoming more efficient and more digital. Regions Bank, which has a significant presence in Louisiana, was cutting branches as fast as any bank in the country in 2017, according to Alabama.com. Capital One has closed several branches in the state in recent months. Hancock Whitney last year closed or consolidated more than two dozen branches as a result of its takeover of the failed First NBC Bank in New Orleans.

To be sure, some of those bank executives note they are adding branches in newer markets, even if they are consolidating physical branches in mature markets. Because IberiaBank has acquired other banks at such a strong clip, Marmande said it has actually added branches on net.

And the trend likely won’t spell the end of the physical bank branch in the long term, officials say.

Instead, bank branches will become increasingly equipped with video-tellers and high-tech ATMs. Mobile apps will offer more and more services. The traditional teller line will give way to a more agile — and probably smaller — staff that can handle a range of customer requests.

The result is a banking industry that will look much different to the average customer in the coming years. Industry leaders say it will ultimately be more attuned to what those consumers want.

“While we are seeing branches looking different and banks not expanding in brick and mortar as much as they may once have, we don’t really see the branch itself going away totally,” said Ginger Laurent, chief operating officer of the Louisiana Bankers Association. “We still have clients who want to come into a physical location when they want to.”

Laurent said the continued consolidation of banks explains branch closures more than anything else. When one bank acquires another, it typically closes or consolidates locations that are close to existing branches. And since 2010, Laurent said Louisiana has 39 fewer banks, and only one new bank has opened.

Hancock Whitney, the Gulfport, Mississippi-based bank, is focusing its efforts on creating a “robust” digital and mobile presence, said COO Shane Loper. And Hancock Whitney branches are going to be smaller, more technology-oriented locations where customers may not come regularly for transactions, but instead for expert advice on more intricate financial matters.

“We believe the smartphone is going to be the center of consumer banking in the future,” Loper said.

After the 2016 flooding in the Baton Rouge region, which inundated a Regions Bank branch in Denham Springs, the bank rebuilt the location to fit a new branch model, which includes a drive-through video banking ATM.

Newer Regions branches are a departure from the traditional teller line, said spokesman Jeremy King. Instead, staff at the branches, which King likened to Apple's retail stores, greet customers as they come in the door and can handle a variety of needs.

The bank also launched a "virtual concierge service," a digital tool customers can use to ask detailed financial questions of bankers.

"There are fewer locations from a net perspective, but we're working to provide more meaningful services," King said.

Baton Rouge-based Investar Bank recently launched a new "video banking" app for mobile users, where customers can connect with bankers remotely to open new accounts and ask about loans, among other things.

While Investar doubled its branch footprint in 2017 from 10 to 20, CEO John D'Angelo said the bank is not building as many branches in markets and will "dramatically reduce the size and number of future branches in new markets." That move is coming in conjunction with the bank's digital strategy.

With that shift toward technology will likely come a continued decline in the number of people employed in the banking sector.

Nearly 42,000 bank tellers are expected to lose their jobs nationally from 2016 to 2026, according to the U.S. Bureau of Labor Statistics. A 2016 Citigroup report found soaring capital investment in FinTech (financial technology) companies and forecast a dramatic reduction in the industry's workforce over the next few years.

"The shift to online banking will reduce the need for customer service positions such as bank tellers or loan officers, which should lead to a decline in employment in the banking industry," said Kabir Hassan, finance professor at the University of New Orleans.

Hassan said changing consumer habits, bank consolidation and competition from online banks is driving the decline in branches. The digital banking phenomenon, though, is the "larger trend that will persist into the long term."

Marmande, of IberiaBank, said it is not only the front-line employees like tellers who will be affected by the digital transformation. Back-of-the-line work is also subject to automation as companies seek to cut costs.

“That’s going to have a bigger impact on jobs than the slow elimination of the human teller,” he said.

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- Jeff Sadow: Louisiana's budget crisis is at a fork in the road, but which path will lawmakers take?
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- Eight robbed at gunpoint in New Orleans over 24 hours, police say

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- Americans Are Replacing Cable TV With This New HDTV Antenna (techrabits.com)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE-MANUFACTURED DRYWALL PRODUCTS LIABILITY LITIGATION	MDL NO. 2047
THIS DOCUMENT RELATES TO: <i>ALL CASES</i>	SECTION: L JUDGE FALLON MAG. JUDGE WILKINSON

DECLARATION OF ARNOLD LEVIN

I, Arnold Levin, declare, based on personal knowledge, information and belief the following:

1. I was appointed by the Honorable Eldon E. Fallon to be Lead Counsel for *In re Chinese-Manufactured Drywall Products Liability Litigation*, MDL 2047 (E.D.La.).
2. I was separately appointed by the Court to act as Class Counsel for the Inex, Banner, Knauf, L&W and Global Settlement Classes.
3. In my capacity as Lead and Class Counsel, I approved and authorized the Motion to Establish Various Qualified Settlement Funds and to Appoint Fund Administrator and Depository Bank [Rec.Doc. 17009]. Therein, Class Counsel requested that the Court approve Esquire Bank to act as the Depository Bank for each of the QSF Funds set forth in the motion.
4. I approved of the appointment of Esquire Bank based on the presentation and documentation provided to me and presented to the Court in the motion and accompanying

papers [Rec.Doc. 17009], as well as the presentation of Andrew Sagliocca, the President of Esquire Bank, at the hearing on September 17, 2013.

5. At that time, in our supporting memorandum, the following was disclosed:

Class Counsel discloses and informs the Court that members of the Plaintiffs' Steering Committee cumulatively own less than 5% of the issued and outstanding stock in this financial institution. Any member of the Plaintiffs' Steering Committee is available to the Court for further disclosure of information should the Court desire any additional information.

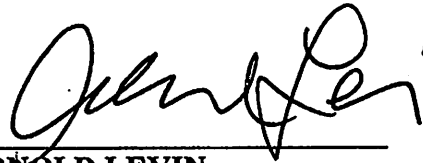
[Rec.Doc. 17009-1 at 3 fn.1].

6. I personally purchased 8,000 shares of Esquire Financial Holdings, Inc. for \$100,000.00 on November 30, 2012, and continue to hold this investment.

7. Neither myself nor my firm have a loan with Esquire Bank.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of June, 2018.


ARNOLD LEVIN

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: CHINESE-MANUFACTURED
DRYWALL PRODUCTS LIABILITY
LITIGATION**

MDL NO. 2047

SECTION: L

**THIS DOCUMENT RELATES TO:
ALL CASES**

**JUDGE FALLON
MAG. JUDGE WILKINSON**

AFFIDAVIT OF ESQUIRE BANK, NATIONAL ASSOCIATION

Eric Bader, the Executive Vice President and Chief Financial Officer of Esquire Bank, National Association ("Esquire Bank"), who being first duly sworn upon oath, states:

1. I make this Affidavit based upon personal knowledge.
2. I am more than Eighteen (18) years of age and of sound mind.
3. I am an authorized agent and representative of Esquire Bank.
4. At the September 17, 2013 status conference, Esquire Bank presented information regarding its QSF Banking program to Judge Fallon. The information included Power Point presentations and exhibits, as well as an exchange of questions and answers with Judge Fallon. In attendance at the status conference were (i) representatives of BrownGreer, (ii) the attorney for Knauf, (iii) the attorney for insurers, (iv) other counsel representing various other parties, (v) Andrew Sagliocca, the President and Chief Executive Officer of Esquire Bank, (vi) Eric Bader, the Executive Vice President and Chief Financial Officer of the Bank, (vii) Lynn Greer who represented BrownGreer, (viii) Robert M. Johnston who appeared as Pro Se Curator, (ix) Arnold Levin who appeared as Lead Counsel for the claimants, and (x) Russ Herman and Lenny Davis who appeared as Liaison Counsel in MDL 2047.
5. Esquire Bank is national banking association, regulated and examined by the Office of the Comptroller of the Currency, a bureau of the U.S. Department of the Treasury ("OCC"). Esquire Bank's deposit accounts are insured by the Federal Deposit Insurance Corporation ("FDIC") up to the applicable limits established by federal law and regulation.
6. Esquire Bank is a highly capitalized FDIC-insured depository institution, with a Common Equity Tier 1 Capital Ratio ("CET1 Ratio") of 17.66% at March 31, 2018. By comparison, at March 31, 2018, the CET1 Ratio of following depository institutions were:

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Name of Depository Institution	CET1 Ratio
JP Morgan	13.59%
Regions	12.92%
Iberia	11.16%
Hancock Whitney	10.63%
Home Bank	12.93%

CET1 is a measure of bank solvency that gauges a bank's capital strength. In particular, the CET1 ratio measures a bank's capital against its assets. The higher the CET1 ratio, the greater the capital strength of the bank.

7. Esquire Bank is the wholly owned subsidiary of Esquire Financial Holdings, Inc. Esquire Financial Holdings, Inc. is a registered bank holding company with, and is inspected by, the Board of Governors of the Federal Reserve System ("FRB"), and is a public reporting company with the U.S. Securities and Exchange Commission ("SEC"). Esquire Financial Holdings, Inc.'s common stock trades on the NASDAQ under the symbol "ESQ". At June 1, 2018, Esquire Financial Holdings, Inc. had 7,445,723 shares of common stock issued and outstanding. Esquire Financial Holdings, Inc. has never paid a dividend to its stockholders.
8. Russ Herman currently owns approximately 0.8% of the outstanding common stock of Esquire Financial Holdings, Inc. or 62,412 shares, which amount includes 2,500 shares of restricted stock and 14,892 exercisable options to purchase shares of common stock of Esquire Financial Holdings, Inc. Stock options vest over a period of years and are exercised with the personal funds of the grantee. The weighted average price for Mr. Herman to exercise his 14,892 options is \$12.50 per share. Accordingly, Mr. Herman would need to pay Esquire Financial Holdings, Inc. approximately \$186,150 in order to exercise those options. Mr. Herman also received 2,500 shares of restricted common stock of Esquire Financial Holdings, Inc. in a single grant which vests in equal installments over a three-year period beginning January 23, 2022 and ending January 23, 2024. As the court transcript indicates, Mr. Herman made full disclosure of his relationship with and ownership in Esquire Financial Holdings, Inc. and Esquire Bank. Transcript pages 20-21 indicate full disclosure and responses to all questions. BrownGreer, as Court-appointed Administrator, also made full disclosure of all processes on pages 8-16. The Court directed at that time that the Court-appointed CPA, Phil Garrett be involved in the process. The hearing transcript is attached.
9. Since 2007, Russ Herman has been a member of the Board of Directors of Esquire Financial Holdings, Inc. and Esquire Bank, and has attended 93 meetings. Mr. Herman has never been a member of the Loan Committee, Audit Committee, Governance Committee or Strategic Oversight Committee of Esquire Financial Holdings, Inc. or Esquire Bank. As such, he is not privy to any customer information related to loans or deposits.
10. Until 2013, neither Esquire Financial Holdings, Inc. nor Esquire Bank ever paid board fees to members of their Board of Directors. From 2013 to 2018, Mr. Herman has received a total of \$27,900 in Director fees, of which Mr. Herman has directly donated \$24,540 to

the Jewish Endowment Fund of Louisiana. The net difference between his Board fees and charitable contributions is \$3,360. Since 2007, Esquire Financial Holdings, Inc. or Esquire Bank have reimbursed Mr. Herman a total of \$112,460.25 in expenses for travel, food, lodging and special events related to his service as a director of Esquire Financial Holdings, Inc. and/or Esquire Bank.

11. Esquire Bank has made a personal loan to Mr. Herman secured by his future receivables and personal guarantee. Because Mr. Herman is a director of Esquire Bank, the loan is subject to the requirements of Regulation O (12 CFR Part 215), a regulation promulgated by the FRB. Regulation O requires that a loan to directors (i) be made on substantially the same terms, including interest rate and collateral, as, and following the credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions with persons that are not subject to Regulation O; and (ii) not involve more than the normal risk of repayment or present other unfavorable terms. Additionally, Regulation O requires that a loan to a director be approved in advance by a majority of the entire board of directors and that the interested director abstain from participating directly or indirectly in the vote. Mr. Herman's loan fully complied with the requirements of Regulation O. The loan was approved in advance by a majority of the directors of Esquire Bank, with Mr. Herman not participating in any discussion or vote on the loan, at market interest rate and without any preferential terms or terms unfavorable to Esquire Bank. The loan is reviewed annually by OCC in connection with its annual examination of Esquire Bank.
12. The QSF funds at issue were administered by Esquire Bank in accordance with Judge Fallon's directive with a focus on safety and soundness, preservation of principal and available liquidity. Esquire Bank has waived all fees related to the QSF other than a \$3,100 charge in 2014. See fee schedule in Esquire Presentation to Judge Fallon. Esquire Bank has complied with the directives provided by the Court and will comply with a directive from Judge Fallon should the decision be made to transfer the deposit.
13. Since the approval of Esquire Bank to hold the QSF funds, and in accordance with the Court's directive, account statements have been submitted monthly to BrownGreer and/or Phil Garrett, CPA. These account statements, representing approximately 1,000 pages, provide detailed information regarding the balances and interest rates earned on the funds. The statements also indicate which products the funds were held in.
14. Esquire Bank provided the following materials concerning interest rates paid on deposits:
 - (a) A graph representing the average FDIC insured depository rates for all US Banks and Thrifts for the deposit products listed below over the 5-year period from 2013 to 2018. This graph notes the very low interest rate environment for all average FDIC Insured Depository Rates for all US Banks and Thrifts from 2013 to 2017.
 - Money Market Rates
 - NOW Accounts
 - 3 Month Certificates of Deposit
 - 3 Month Jumbo Certificates of Deposit (greater than \$250,000)

➤ One Month Treasury Rate – For Comparison)

(b) A graph representing the Federal Funds Target Rate set by the Federal Open Market Committee (FOMC), represented by the Green line. This graph reflects the very low interest rate environment from 2009 to 2016, with rates beginning to increase in 2017.

(c) A graph representing the 3-month and 10-year US Treasury Rates. This graph represents the very low interest rate environment from 2009 to 2016, with Treasury rates beginning to increase in 2017.

15. The QSF earned the following interest income on the Knauf Attorney Fee deposit as interest rates rose:

	<u>Avg. Balance</u>	<u>Income</u>	<u>YOY Change</u>
2014 (a)	118,824,875	8,696	
2015	139,575,653	23,083	165%
2016	186,898,965	34,038	47%
2017	190,375,689	169,049	397%
2018 (b)	189,578,157	673,971	299%

(a) Funds received in March of 2014

(b) Estimated Annualized Income

16. Esquire Bank has unique qualifications to manage QSFs. It has a strong understanding of QSF administration, working with plaintiff counsel, defense counsel, claims administrators, and/or lien resolution firms, as well as the courts. Esquire Bank also has a strong board, investor and customer knowledge base in the legal community, as well as Senior and Executive management team involvement in all discussions and decisions related to QSFs. Esquire Bank has worked with numerous administrators and law offices.

17. Esquire Bank has managed approximately \$2,000,000,000 (\$2 billion) in QSFs to date. Esquire Bank utilizes "sweep arrangements" for these funds, ensuring the funds are at all times secured by U.S. Treasury notes and/or FDIC-insured deposits, and are readily accessible. With respect to protecting QSF funds, Esquire Bank's goals, in order of priority, are: (1) preservation of principal; (2) daily liquidity to meet client demands on any given day, and (3) returns. The U.S. Treasury (Federated) and FDIC-insured (Promontory) funds that Esquire Bank utilizes for QSF fund management represent funds with total assets under management of approximately \$250,000,000,000 billion (\$250 billion). It is not Esquire Bank's business model to leverage off-balance sheet QSF funds into on-balance sheet deposit, thereby utilizing these funds to generate and fund asset growth (i.e. Loans and investment securities)

18. The type of funds/products used to manage the QSF deposits is the most important factor in managing QSF funds, not the asset size of the financial institution that manages the QSF. The products that Esquire Bank uses provides the necessary safety and soundness and preservation of principal needed to protect QSF funds. The amount of the deposit is also not relevant to the decision. What is important is Esquire Bank's unique experience

in the legal industry and managing QSFs. For example, The Bank of New York manages \$1.9 trillion in assets, (trust department assets) and has total assets (balance sheet) of only \$372,000,000,000 (\$372 billion).

19. Esquire Bank is a branchless bank model because its attorneys and merchants, Esquire Bank's primary customer sources, do not require brick and mortar bank offices to manage their businesses. Esquire Bank does business nationwide across the United States. It processes in excess of \$6,000,000,000 billion (\$6 billion) in merchants' payments annually.
20. Esquire Financial Holdings, Inc. and Esquire Bank are both highly regulated entities. Esquire Bank receives annual safety and soundness examinations from the OCC and Esquire Financial Holdings, Inc. is subject to annual inspections by the FRB. These examinations and inspections are presented to the Boards of Directors of Esquire Bank and Esquire Financial Holdings, Inc. The Bank is also examined by the FDIC, which insures its deposits. Since June 2016, Esquire Financial Holdings, Inc. has been a public reporting company to the SEC. Accordingly, both Esquire Financial Holdings, Inc. and Esquire Bank file current, quarterly and annual reports with the SEC, OCC and FDIC, all of which are available in the public domain.
21. Esquire Bank from its inception, adopted a 21st century technological mindset. Today, payment processing is done electronically by most banks. Larger banks are downsizing their branch presence and have either instituted or are presently converting to a technological mindset.
22. The driving force behind Esquire Financial Holdings, Inc.'s Initial Public Offering (IPO) was its unique business model including its core deposits, IOLTA-IOLA accounts, unique assets/loan products, merchant servicing platform, and unique niche as the only bank servicing the legal community with a focus on plaintiff law firms and their clients. Esquire Bank lends to numerous law firms through various unique products, not made available by other banks. Esquire Bank takes the time to understand the unique needs regarding deposits and lending within the plaintiff lawyer community. Documents related to the IPO are available on the SEC website.

Dated this 26th day of June 2018.

ESQUIRE BANK, NATIONAL ASSOCIATION



Eric S. Bader, Affiant

NOTARY

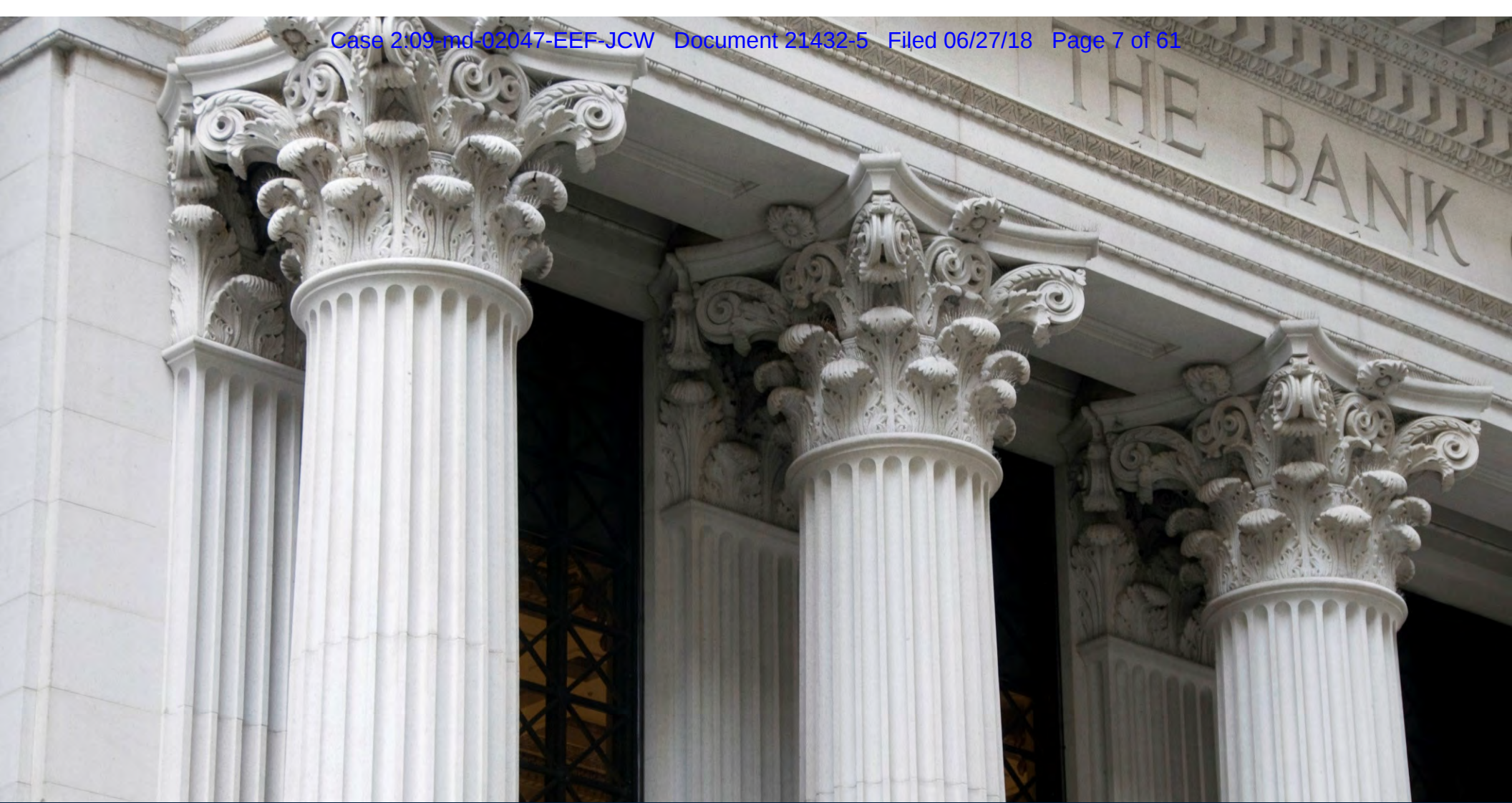
Subscribed and sworn before me, a Notary Public, this 26th day of June 2018.

Commission Expires: Sept 11 2018



Notary Public

FEONA KHAN
Notary Public, State of New York
No. 01BA6152435
Qualified in Queens County
Commission Expires Sept 11 2018



ESQUIRE[®] BANK

Forward Looking Statements

This presentation may contain statements relating to the future results or actions of the Company (including certain projections and business trends) that are considered "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995 (the "PSLRA"). Such forward-looking statements, in addition to historical information, which involve risk and uncertainties, are based on the beliefs, assumptions and expectations of management of the Company. Words such as "expects," "believes," "should," "plans," "anticipates," "will," "potential," "could," "intend," "may," "outlook," "predict," "project," "would," "estimated," "assumes," "likely," and variation of such similar expressions are intended to identify such forward-looking statements. Examples of forward-looking statements include, but are not limited to, possible or assumed estimates with respect to the financial condition, expected or anticipated revenue, and results of operations and business of the Company, including earnings growth; revenue growth in retail banking lending and other areas; origination volume in the consumer, commercial and other lending businesses; current and future capital management programs; non-interest income levels, including fees banking services as well as product sales; tangible capital generation; market share; expense levels; and other business operations and strategies. For this presentation, the Company claims the protection of the safe harbor for forward-looking statements contained in the PSLRA.

Factors that could cause future results to vary from current management expectations include, but are not limited to, changing economic conditions; legislative and regulatory changes, including increases in FDIC insurance rates; monetary and fiscal policies of the federal government; changes in tax policies; rates and regulations of federal, state and local tax authorities; changes in interest rates; deposit flows; the cost of funds; demands for loan products; demand for financial services; competition; changes in the quality and composition of the Bank's loan and investment portfolios; changes in management's business strategies; changes in accounting principles, policies or guidelines, changes in real estate values; an unexpected increase in operating costs; expanded regulatory requirements as a result of the Dodd-Frank Act, which could adversely affect operating results; and other factors discussed elsewhere in this presentation, and in other reports filed by the Company with regulatory agencies. The forward-looking statements are made as of the date of this report, and the Company assumes no obligation to update the forward-looking statements or to update the reasons why actual results could differ from those projected in the forward-looking statements.

Esquire QSF Banking Program

- Esquire Bank has developed a Qualified Settlement Fund (“QSF”) banking program with an **innovative and well secured qualified settlement loan product**. Esquire Bank is a unique provider of financial services and products to the legal community, developing a strong brand and reputation as the “**Bank of Choice**” for attorneys and their firms.
- Esquire Bank’s **dedicated QSF Team** is comprised of members from our Senior Management Team. These individuals have **multiple years of banking experience** and assist our clients to fulfill their fiduciary responsibilities.
- Understanding the important principles of **preservation of capital and fiduciary responsibilities** of the Trustee is key to our successful program. We have partnered with industry leaders to offer products that fulfill the investment requirements issued to the trustees by the courts for both on and off balance sheet products.

Esquire QSF Banking Program

Esquire Bank has an **in-depth understanding of QSFs** and the legal documents required to establish and administer QSFs.

Esquire's tailored services include, and are not limited to:

- Understanding of the Master Settlement Agreements and related confidentiality and non-disclosure elements of the MSA
- Customized QSF Account Applications & Investment Agreements
- In-depth understanding of Blocking Agreements & related Release Documents
- Coordinate document between TPA, Defense Attorney & Plaintiff Attorney
- Understanding of Release Documents protocol
- Online Banking with ability to upload the necessary files for reconciliation
- Positive Pay services (fraud protection)
- Electronic statements
- Dedicated QSF Team available 24/7
- Remote Deposit Capture
- Streamlined KYC Process

Esquire QSF Banking Program

Understanding the importance of **principle preservation and fiduciary responsibilities** of the Trustee is key to our successful program.

We have partnered with industry leaders to offer products that **fulfill the investment requirements** issued to the trustees by the courts for both on and off balance sheet products.

- **CDARS** – The Certificate of Deposit Account Registry Services is the most convenient way to access **100% FDIC Insurance** on multi-million dollar CD deposits.
- **Insured Cash Sweep (ICS)** – The Insured Cash Sweep Service provides access to multi-million dollar **100% FDIC Insurance** for funds placed into money market accounts, providing enhanced flexibility for funding needs.

Esquire QSF Banking Program

- **Federated Investment Funds** – Since 1955, millions of investors in the United States and around the globe have relied on Federated Investors ***for world-class investment management.*** Federated has grown to become one of the nation's largest investment managers with \$377.3 billion in assets under management. Federated diversified product line is distributed through approximately 5,500 financial intermediaries and institutions who assist investors in meeting their unique objectives. Esquire Bank offers numerous investment solutions including but not limited to:
 - Treasury Funds
 - Money Market Funds
 - Commercial Paper Funds (CP)
 - Corporate Bond Funds
- **Esquire Investment Services (EIS)** – Esquire Investment Services is a full service Investment Company, inclusive of Trust Services. Utilizing Esquire Investment Services is a great way to structure an investment portfolio with known parameters, such as ***liquidity and maturity to maximize returns*** with a focus on safety and soundness.

QSF Rates

100% FDIC Insured Products

CDARS and ICS program market rates are set on a weekly basis. The rates for the week of September 9th are listed below and subject to change based on market conditions.

- Insured Cash Sweep (ICS) – 5bps
- **CDARS**
 - 4 week – 5bps
 - 13 week – 5bps
 - 26 week – 10bps
 - 52 week – 15bps
 - 2 year – 20bps
 - 3 year – 25bps

Federated Investment Products

See funds and daily rates below as of 09/11/13. Rates are subject to change based on market conditions.

U.S. Treasury Cash Reserves Fund – U.S. Treasury Securities	0.00%
Treasury Obligations Fund – U.S. Treasury Securities and Repo	0.01%
Government Obligations Fund – AAA Treasuries Agencies and Repo	0.01%
Prime Obligations Fund – AAA Commercial Paper	0.01%
Prime Cash Obligations Fund – AAA Commercial Paper with Int'l Paper	0.03%

QSF Fee Overview

Esquire Bank's QSF Banking Program fees are **charged to cover partial administrative costs only**. Esquire Bank's primary focus is delivering our products and services to law firms and their customers to generate revenue.

Our fees are minimal and consist mainly for the items listed below:

- Wires
- Positive Pay (Fraud Protection), if applicable
- Release Review and Processing
- Minimal Annual and Set-up Fee

Esquire Bank is prepared to work with the courts on all fees to **minimize expenses** to the QSF. The Bank will provide detailed and clear monthly statements to the courts for their review.

Primary QSF Fee Schedule

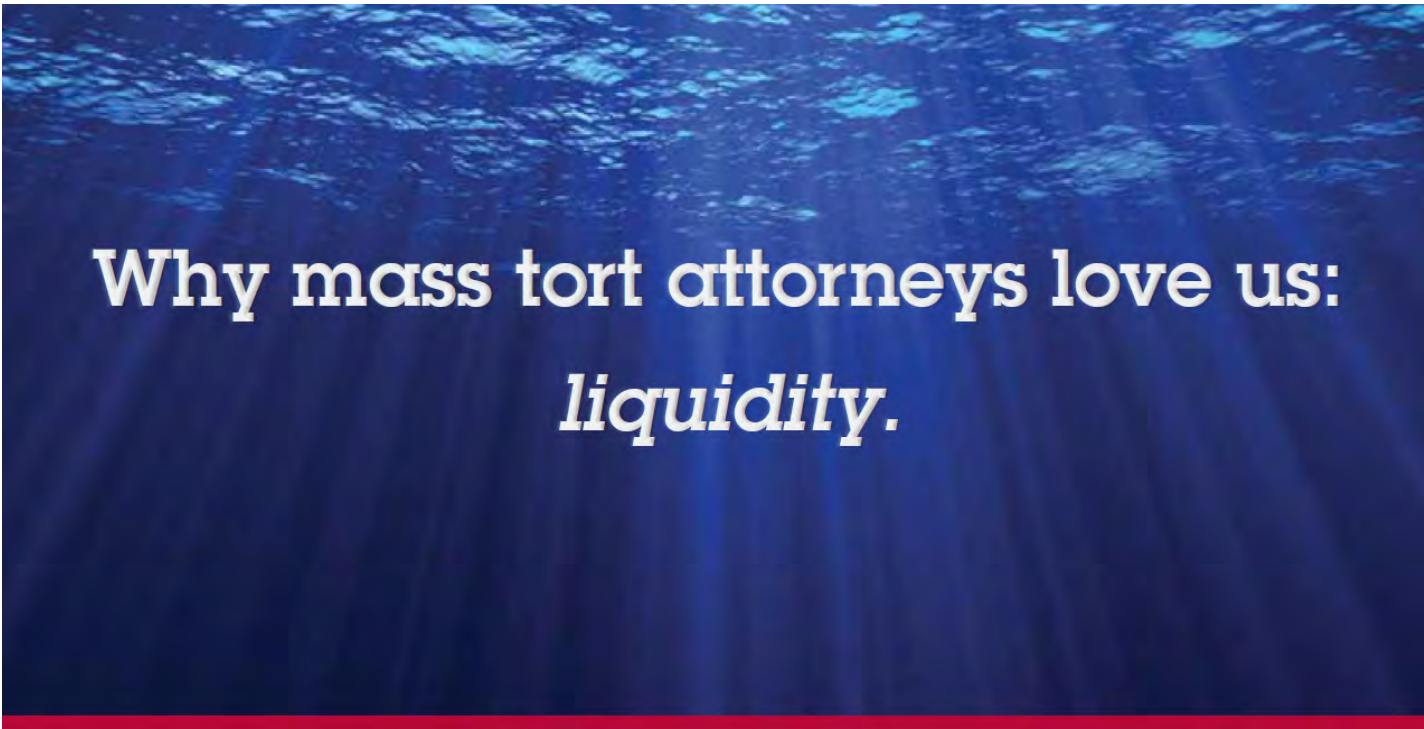
Service	Fee per unit	Fee per annum* <i>*It is estimated that CDW will have 21 bank accounts.</i>
Wires	\$20 per wire	Typical wire activity runs from 10-50 wires per \$100 million in QSF annually or <u>\$200 - \$2,500 annually. This fee can be adjusted.</u>
Positive Pay <i>This represents the banking service required by Claims Administrators for disbursing funds directly to claimants (Fraud Protection).</i>	\$40 per month per account (Esquire's cost)	It is estimated that CDW will have 21 banking accounts x \$40 per month = <u>\$10,080 per annum.</u> This fee represents recovery of our cost with no profit. Positive Pay only used when disbursements via check directly to plaintiffs.
Charge for Release Review <i>Processing Blocked Account Agreements & Review Release</i>	\$20 per review	Typical activity runs from 10-50 reviews per \$100 million in QSF annually or <u>\$200 - \$2,500 annually. This fee can be adjusted.</u>
Federated Investments	\$50 per month per account	<u>\$12,600 per annum. This fee will be waived.</u>
Annual Fee	\$100 per month per account	<u>\$25,200 per annum.</u> Typical fees by other institutions run \$125-\$200 per month per account or \$31,500-\$52,500 per annum. <u>This fee can be adjusted.</u>

Current QSF Program Management

- 22 Open QSFs to Date
 - Including, but not limited to:
 - Avandia
 - Byetta
 - Chantix
 - Yaz
- \$513 million Funded
- Numerous TPA's & Claims Administrators
- **Primary Focus = Preservation of Principal**



QSF Loan Program



Why mass tort attorneys love us:
liquidity.

Esquire Bank's QSF Loan Program gives attorneys:

- ***Liquidity***

- No longer does an attorney have to wait for 90% of his plaintiffs to have settled before he and his clients can get paid.

- ***Flexibility***

- Attorneys can decide how they want to get paid: a lump sum, a structured settlement, or a combination of the two.

A Safe & Sound Institution

Core Principles – June 2013

Strong Capital Position

- Leverage Ratio 9.98%
- Tier 1 Risk Based Capital Ratio 17.78%
- Total Risk Based Capital Ratio 19.03%

Excess Liquidity to Meet Customer Demands

- \$100 million of Excess Liquidity; 50% of deposit base

Pristine Asset Quality

- 32% Securities (Primarily FNMA/FHLMC MBS)
- 65% Loan to deposit ratio
- Non Performing Loans to Total Assets .01%

Strong Core Deposit Base

- \$200 million with 21bp cost of funds
- 64% Low Cost Core Deposits (DDA & NOW)

A Safe & Sound Institution

Excess Liquidity

Maximize Liquidity Position

- \$100+ million or 50% deposit base; industry average is 20%-30% of deposit base.
- Ability to consistently meet all customer demands in a timely manner.

Deposit Aggregator

- High level of customer service; access to decision makers
- Free cash management solution; a “branch” in the office

Regulation

- Esquire Bank is regulated by the Office of Comptroller of the Currency (OCC).
- Supplemented with Annual Audited Financial Statements

Well Recognized Board of Directors

Board Member	Background
Tony Coelho	Member of U.S. House of Representatives from 1978 – 89; author of Americans with Disabilities Act
Christopher E. Diamantis	Chairman of Integrated Financial Settlements
Marc D. Grossman	Senior partner of The Sanders Law Firm
Russ Herman	Senior Partner of Herman, Herman, & Katz LLC; past President of Civil Justice Founding and American Association of Justice
Harvey Hirschfeld	President and Director of Plaintiff Funding; Chairman of American Legal Finance Assoc
Robert Mitzman	President and CEO of Quick International Courier
Angelique Moreno	Partner of Avanzino & Moreno
Richard Powers	Former President and CEO of Esquire Bank; EVP and COO of North Fork Bank
Andrew Sagliocca	Current President and CEO of Esquire Bank; Former SVP/Head of Finance, North Fork Bank
Christopher A. Seeger	Founding member of Seeger Weiss LLP
Michael J. Skoler	CEO of Sokolove Law
Dennis Shields	Chairman of Esquire; CEO of Plaintiff Funding
Kevin Waterhouse	Vice President and Investment Advisor of L.M. Waterhouse & Co
Selig Zises	Chairman of Plaintiff Funding Holding, Inc.

Steering Committee Stock Ownership

Members of the Plaintiffs' Steering Committee cumulatively own less than 5% of the issued and outstanding stock in Esquire Financial Holdings, Inc.*

**Individual ownership available upon request.*

Experienced Senior Management

Management	Role	Years Financial Services Experience	Prior Experience
Dennis Shields	Chairman of the Board	24	CEO of Plaintiff Funding Corp since its inception in 2000.
Andrew Sagliocca	Chief Executive Officer and President	24	Former Senior Vice President and Director of Finance of North Fork Bank for 13 years.
Eric Bader	EVP and Chief Financial Officer / Treasurer	14	Former Vice President and Investment Officer at North Fork Bank.
Ayal Glezer	SVP and Chief Lending Officer	14	Former Senior Commercial Underwriter for Global Investment Banking Firms. Analyzed FDIC receivership portfolios for 24 separate financial institutions.
Ari Kornhaber, Esq.	EVP and Director of Sales	14	Former practicing plaintiff's lawyer with the law firm of Pariser and Vogelmann, PC. Former trial attorney for the law firm of Napoli, Kaiser and Bern, LLC.

The Power to Win.

The storm clouds are an
epic court battle brewing.

The elephant is a huge
pharmaceutical
defendant.

And Esquire Bank is the
perfectly-positioned
mouse.



ESQUIRE® BANK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE MANUFACTURED * Docket 09-MD-2047
DRYWALL PRODUCTS *
LIABILITY LITIGATION * September 17, 2013
*
This Document Relates to All Cases * 9:00 a.m.
* * * * *

MONTHLY STATUS CONFERENCE BEFORE
THE HONORABLE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiffs: Herman Herman Katz & Cotlar
BY: RUSS M. HERMAN, ESQ.
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For Knauf Entities: Frilot, LLC
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13 For Esquire Bank: Esquire Bank
14 BY: ANDREW SAGLIOCCA, PRESIDENT
15 BY: ERIC BADER, VICE PRESIDENT
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18 Claims Administrator: BrownGreen, PLC
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7 Proceedings recorded by mechanical stenography, transcript
8 produced by computer.
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JODI SIMCOX, RMR, FCRR - OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

PROCEEDINGS

(September 17, 2013)

(OPEN COURT)

THE COURT: Be seated, please.

Good morning, ladies and gentlemen.

Let's call the case, please.

THE DEPUTY CLERK: MDL-2047, *In re: Chinese Drywall
Manufactured Drywall Products Liability Litigation.*

THE COURT: We're here today for our monthly status conference. I met with liaison and lead counsel in this matter before this meeting and went over the proposed agenda. I'll take them in the order that we discussed.

Counsel, make their appearance for the record first, please.

MR. MILLER: Good morning, Your Honor. It's Kerry Miller on behalf of Knauf and the Defense Steering Committee.

MR. HERMAN: May it please the Court, good morning, Judge Fallon. Russ Herman for plaintiffs.

THE COURT: Okay. The first order on the proposed agenda is pretrial orders. Anything on that?

MR. HERMAN: No additional pretrial orders. PTO 27 was entered and sets claims administrative procedures, which are abbreviated, C-A-P, CAPs, and the CAPs. As the program proceeds and problems may arise, we'll approach Your Honor with

1 some amendments to PTO 27 for Your Honor to consider. It's
2 been the experience that as the claims go forward, there are
3 always some unforeseen matters.

4 THE COURT: The next items are the state court trial
5 setting and state/court federal coordination. Anything on
6 that?

7 MS. BARRIOS: Good morning, Your Honor. Dawn Barrios
8 for the state.

9 We're nearing the end of my reporting to you.
10 Because of your good work, and the good work of the state court
11 judges, we're moving swiftly along.

12 There's only one change from Judge Hall. The
13 *Caburian* case has been moved up a week. With regard to *Ramirez*
14 and *Torres*, which are the aggregate settlements in Virginia,
15 they're almost winding up. And class counsel on the other
16 settlements, we have a weekly conference call moving that
17 forward and doing the claim forms, using the MDL mostly as our
18 base.

19 THE COURT: Okay. Fine.

20 MS. BARRIOS: Thank you, Your Honor.

21 Thank you very much.

22 MR. HERMAN: There is one other -- I'm sorry, Your
23 Honor. May it please the Court, there's one additional issue I
24 should mention for the record. The *Lennar* appeal, a per curiam
25 came down affirming the trial judge, and Your Honor's opinion

1 is prominently mentioned. It was reviewed by us yesterday.
2 And the federal Fifth Circuit has been advised of the opinion
3 in connection with the appeals presently pending, and we will
4 provide -- since that opinion is, in effect, a per curiam, we
5 are going to provide a copy to be posted on Your Honor's Web
6 site.

7 **THE COURT:** All right. That's with regard to
8 Taishan. Judge Farina and I conferred on that and issued
9 similar opinions, holding that there was jurisdiction over
10 Taishan. His opinion has been appealed, as I understand it,
11 and the appellate Court has affirmed him. I think that that's
12 the end of the line, as I understand, at least in that
13 appellate court.

14 Anything on omnibus class actions?

15 **MR. HERMAN:** May it please the Court, various motions
16 to dismiss have been filed. Part of the settlement, except for
17 Lafarge and Boral, that would be No. XI, and dealt with in
18 XIX -- roman numeral XIX at page 21.

19 Does Your Honor want to hear those after we get
20 through?

21 **THE COURT:** Yes. I'll take a short break and hear
22 from them, because some folks on the line want to speak on
23 those issues.

24 **MR. HERMAN:** For anyone listening, since there have
25 been a number of omni complaints, and the status report, as

1 directed by Judge Fallon, is placed on the judge's Web site,
2 you can review all of the omni complaints, particularly those
3 that may interest your clients, on pages 6, 7, 8 and 9 of the
4 status report.

5 **THE COURT:** All right. As I've mentioned before, you
6 won't find omni complaints in the Federal Rules of Civil
7 Procedure. What we did was create another vehicle by which the
8 complaints could be joined because, particularly insofar as
9 service is concerned, it's over \$100,000 to serve under the
10 Hague these days, at least in China.

11 Rather than have 200 complaints go out at
12 \$100,000 each, we joined them together as an omni complaint and
13 made service of one sufficient for everybody. So that's one of
14 the reasons for the omni complaints.

15 We don't have it on the agenda, but I understand
16 we have a report from the claims administrator as to the status
17 of that process.

18 **MR. HERMAN:** Yes, we do, Your Honor. Lynn Greer is
19 here from the firm of BrownGreer, and designated by the Court,
20 and with the support of all the parties, is here to report.

21 I do want to indicate to everyone here, and
22 folks on the phone, that the September 30th deadline is
23 approaching. There is no agreement currently between Knauf and
24 the PSC to extend that deadline. So, again, I'm going to urge
25 folks who represent claimants, and claimants representing

1 themselves or through Bob Johnston's pro se directions, to
2 please file before that deadline.

3 THE COURT: All right.

4 MS. GREER: Good morning, Your Honor.

5 THE COURT: Good morning, Lynn.

6 MS. GREER: Your Honor, Lynn Greer from BrownGreer in
7 Richmond, Virginia, and we're the settlement administrator in
8 this case.

9 What I'd like to do today is give Your Honor and
10 those here, as well as those on the phone, because we will be
11 posting these on our Web site, an overview of significant
12 activity in the settlement program today and an update on the
13 claims filing activity.

14 This slide, Your Honor, represents the number of
15 claims and properties and claimants who registered with the
16 program. And the deadline for registration was July 8th of
17 this year.

18 This slide shows that there were 8,295 claimants
19 represented by 194 firms that registered with the program.
20 1,102 pro se claimants. There were 15,623 properties
21 registered affected properties by those represented by counsel,
22 and 1,522 by those represented by pro se's.

23 And claims are an even higher number. Because,
24 as Your Honor knows, a claimant, and actually a property, can
25 have several different claims that they're eligible to file.

1 23,094 claims by those who are represented by counsel, and
2 2,209 by pro se claimants, for a total of 25,303 claims that
3 were registered.

4 This slide shows the number of claims filed as
5 of Friday. And this slide also shows the breakdown of the
6 specific claims that are filed.

7 You'll see that the "Global, Banner, InEX Repair
8 and Relocation Expenses" has the most claims so far: 764
9 filed, another 620 in progress. The "In Progress" column shows
10 claims that we can tell folks are in there working on. They
11 have not yet hit the "Submit" button, but we know that they're
12 working to try to submit those. A total of 1,384 Global,
13 Banner, InEX Repair and Relocation Expense claims; 711 Knauf
14 Remediation claims either submitted or in progress. We have a
15 total of -- and this was as of Friday -- 1,798 claims
16 submitted.

17 I will tell the Court that there has been a
18 significant uptake in activity over the weekend. That number
19 is now more -- it's over 2,000 now of claims that have been
20 filed. So we are seeing a lot more activity coming in.

21 This just shows, Your Honor, activity since the
22 last status conference. And you'll see that over 1,500 claims
23 have either been filed or have been in progress since the last
24 status conference, again showing that there is activity
25 ongoing.

1 This slide, though, shows how many registered
2 "Claimants," "Affected Properties," and "Claims" have either
3 been submitted or are in progress and how many are remaining.

4 So of the 9,327 claimants that registered, we've
5 only gotten submissions from 12 percent; another 11 percent are
6 in progress; but 77 percent of those who registered have not
7 yet submitted a claim.

8 "Affected Properties," 17,145. 10 percent of
9 those properties have been submitted; another 13 percent in
10 progress; 77 percent remaining.

11 "Claims," 25,303. We've received 8 percent of
12 those submissions; 5 percent in progress; but 87 percent of the
13 claims that are registered have not yet either been begun or
14 submitted.

15 **THE COURT:** What's the reason for that, though, Lynn,
16 as you see it?

17 **MS. GREER:** Well, I think a lot of people are working
18 very hard to gather the documents that they need to submit.
19 What I'd like to talk about in a minute, Your Honor, is to
20 encourage people, even if they don't have all of the documents,
21 to go ahead and submit them. The process is a friendly one.
22 We do give people a chance to cure any claim that is
23 incomplete, and this is not atypical.

24 In a lot of claims programs, you usually see at
25 least 50 percent of the claims coming in within days of the

1 deadline. But I do think it's a combination of just claim
2 filing behavior in general, but also the document requirements
3 that people are so anxious to get and submit a complete claim.

4 This shows a claim through the process, and I'll
5 just go over this generally. This is just a flow chart. It
6 starts with registration. As I mentioned, the deadline was
7 July the 8th. The current claims submission deadline is
8 September 30th, so just 13 days.

9 Once we get a claim, we will review the claim
10 and one of two things will happen. We will either see that it
11 is incomplete and we will issue an "Incompleteness Notice."

12 And, Your Honor, we have promulgated, and the
13 Court has approved, CAP-3 which does address the incompleteness
14 process, and which clarifies that we will send an
15 incompleteness notice. We will tell people specifically what
16 is missing. They will then have 30 days to cure that
17 incompleteness. After 25 days, we'll send a followup to anyone
18 who has not yet submitted to tell them they have five days left
19 to submit it again, trying to make this a friendly process.

20 If the claimant then cures the incompleteness,
21 then we will go forward with the eligibility or the denial
22 notice, but probably an eligibility notice.

23 Then following that, the claimant has another 30
24 days to appeal the decision or the outcome of our review.

25 The only denial notices that we will issue at

1 this juncture are those that are filing for remediation but we
2 can tell have already been remediated either in the pilot
3 program, or they're an already-remediated home, or if we can
4 tell that the claimant is not a class member. Everything else
5 will go through the incompleteness track before we would issue
6 a denial notice.

7 This process flow is a little more detailed.
8 The purpose of this slide, Your Honor, is to show that for
9 Knauf remediation claims, the analysis and the review doesn't
10 stop with the settlement administrator. If someone is seeking
11 remediation and we find sufficient indicia of drywall, it then
12 will go through the program inspector, the contractor, to be
13 able to do all of the paperwork and get the estimate together,
14 before the claimant even has to submit whether they want to
15 have their home remediated by Moss, by someone else, or just to
16 get the lump sum -- the payment at that point.

17 So this slide is only to show that a remediation
18 claim takes more work than just with the settlement
19 administrator. It involves some third-party activity as well.

20 This is a highlight slide, Your Honor, of
21 significant settlement administrator activity that we have
22 undertaken with the cooperation and the involvement of the
23 parties. We have a weekly status conference telephone call
24 with representatives of the parties to go through any
25 significant claims decisions. We review CAPs. That's been a

1 very fruitful exercise that we do every Thursday.

2 But this shows, Your Honor, we have been able to
3 pull in for people who have submitted documents to us in the
4 prior phases of this program -- they submitted a lot of
5 documents to us -- we have been able to identify almost 80,000
6 documents that we already had that we were able to pull in for
7 claimants in this program so that they don't have to submit
8 them again. And that has been for over 55-, 5600 affected
9 properties.

10 We have also developed a master address system
11 that allows us to make sure that we have a unique identifier
12 for each property to make sure that we avoid duplication of
13 claims that are being filed in the system.

14 We've designed the database screen so that our
15 reviewers can review these claims as they come in. We have
16 developed an online notice system. For people who are
17 participating in this program through the Web site, we will be
18 issuing notices online, informing counsel and pro se claimants
19 of activity in their claim.

20 We also have developed the response system. So
21 if someone needs to submit a document to cure a claim, they can
22 do that online and to avoid mail and hard copy submission,
23 although that is also available for people who don't want to
24 use the Internet.

25 The other thing that we've done is we have

1 created a system -- this program's a little bit different than
2 some, where usually you just have a claimant submitting
3 information. Here we have multiple levels of information
4 coming in from builders, for example, who are submitting their
5 claims on spreadsheet, or from the contractors who are
6 submitting documentation. So we developed a system to be able
7 to get documentation from not just from plaintiffs but third
8 parties as well.

9 This is just a screen shot of the online
10 submission screen that allows us to drive the program. If
11 someone, for example, picks that the manufacturer was
12 non-Knauf, then that informs the screens that we make available
13 for them. For example, we would not then show them or give
14 them the ability to file a remediation claim -- a Knauf
15 remediation claim.

16 So this is what the claimants who use the online
17 system see initially. It helps us bucket the claim and the
18 settlement in which it's proceeding.

19 This slide highlights the three CAPs that we
20 have developed and promulgated. The first just discussed how
21 the CAP process would work, the claims administration
22 procedures.

23 The second is a CAP that helped flesh out proof
24 requirements and how to submit -- it actually provided a
25 template affidavit called a "Supply Chain Affidavit" for people

1 who knew who their builder and supplier was but they don't have
2 proof of that. It also allowed us to accept claims from
3 builders on a spreadsheet.

4 And then CAP-3 is the incompleteness process
5 that we've described before that lays out the time frames for
6 how that will be handled.

7 This is just an example of what these CAPs look
8 like. These are posted on our Web site and on the Court's Web
9 site.

10 This slide, Your Honor, just talks about all the
11 different levels of outreach that we and the pro se curator
12 have for claimants in this program. I won't read each of
13 these, but it will be on the Web site. So if anybody wants to
14 know how to call us, how to send a question, what the Web site
15 is, they can go to this slide. We have actually answered
16 already over 2500 questions to the "Questions Inbox." A lot of
17 activity and a lot of interaction is ongoing daily with
18 claimants and their law firms.

19 This is our contact information again. We'll
20 post this on the Web site. A lot of people already know this,
21 but it sets forth our address and our telephone number and the
22 Web site and the e-mail address.

23 Your Honor, the last slide is simply a list of
24 the QSFs that we are helping with Mr. Garrett and the parties
25 to be able to establish and be able to get funded and

1 disbursed. We're working with Mr. Garrett and with Esquire
2 Bank to make sure that those funds are established and we can
3 pay out of those.

4 **THE COURT:** The thing that concerns me is just that
5 we have 77 percent of the claims that were registered haven't
6 submitted any material. I'd like you to see whether you can
7 get together a list of the attorneys who represent those
8 individuals and give it to liaison counsel. He can make the
9 necessary calls, because sometimes it just gets put in a drawer
10 someplace.

11 **MS. GREER:** Yes, Your Honor, we can do that.

12 **THE COURT:** The same way with the pro se. If you can
13 get in touch with Bob Johnston and give him the list of pro
14 se's so that maybe he can call them and make sure that they
15 understand that even if they don't have all of their material
16 together, if they submit what they have, that will get their
17 feet in the door, hopefully.

18 **MS. GREER:** Yes. We can do that, Your Honor.

19 The other thing that we are working on is
20 another CAP that outlines the appeals procedures. So that if
21 there's concern out there about how a claim will go through an
22 appeal, that CAP should clarify that, and we're working with
23 the parties to finalize that. But we will provide those lists
24 to liaison counsel and to Mr. Johnston.

25 **THE COURT:** This program, unlike a lot of the

1 programs that I've been involved in, it requires so much
2 documentation that sometimes it can be daunting; and people
3 want to get all of it before they submit it so they don't get
4 rejected. But maybe we ought to give them an opportunity to
5 get what they have and then see whether or not we can get the
6 rest later on.

7 MS. GREER: Yes, Your Honor.

8 THE COURT: Okay. Thank you very much.

9 MS. GREER: Thank you.

10 MR. HERMAN: May it please the Court. Your Honor,
11 let me, if Your Honor will indulge me, just make a couple
12 comments about folks getting their materials in.

13 The PSC and Knauf had a, and have a, fairly
14 reliable estimate that there are about 4,200 Knauf homes.
15 About 50 percent of those went through a pilot program. So
16 that when we look at these numbers, they're sort of skewed
17 because they've got different types of claims coming through.

18 But, nevertheless, meeting this deadline is very
19 important. We'll get a notice to the attorneys, and I'll speak
20 with Bob Johnston afterwards on the pro se, but we do have to
21 do something to accelerate it.

22 Also, there was a meeting yesterday. Kerry
23 Miller and Kyle were there on behalf of Knauf, Moss had three
24 representatives there, the PSC had representatives there, and
25 Moss is ready to schedule and progress through a number of

1 remediations. So the sooner you can get the material in, the
2 sooner it can be vetted by BrownGreer and authorization of Moss
3 to start the remediation can begin.

4 We've also published a list of the materials
5 that would be essential for folks to accumulate if they don't
6 have and provide. I do want to mention two Web sites. The
7 first is <https://chinesedrywallclass.com>. And the next is
8 chinesedrywallregistration -- one word -- @browngreer -- one
9 word -- .com. You can access more information at page 11 of
10 the status conference report published on Judge Fallon's Web
11 site for CDW.

12 THE COURT: Okay. The next item is the various
13 motions to establish qualified settlement funds, QSFs. I've
14 asked representatives of the banks that have been picked to
15 appear today to tell us something about their operations and
16 what they plan to do.

17 MR. HERMAN: May it please the Court. Your Honor,
18 thus far has, subject at the direction and approval of the
19 Court, established 21 QSFs. Another QSF will be motioned
20 before the Court, one additional one.

21 With respect to the QSFs, Esquire Bank has two
22 representatives here, Your Honor, Andrew Sagliocca, president
23 of the bank, and Eric Bader, vice president of the bank, and
24 they have a full report to make to Your Honor. I'm going to
25 ask that their report, which is in slides, be attached and

1 filed in the record.

2 In addition to that, I previously reported to
3 the Court that less than 5 percent of the issued and
4 outstanding shares were owned by individuals whose firms have
5 some appointed position in the Chinese Drywall MDL.

6 After reviewing all the records extensively, the
7 actual figure is 3.59 percent. A list of those individuals and
8 their shareholdings are confidential; however, I've provided
9 them to the Court. And, Your Honor, I'd like permission to
10 file that information of record in order that anyone may
11 petition the Court to take a look at that whenever upon good
12 cause shown.

13 **THE COURT:** Okay. With regard to the QSFs, these are
14 necessary. Because what happens is that the funds have to be
15 placed on deposit so that those funds can be paid out
16 appropriately to the appropriate people. In many cases,
17 there's one or two QSFs. In this particular case, because of
18 the numbers involved -- as I say, we have over 1,000 defendants
19 in this case -- we've had to have 21 QSFs.

20 It's important that these be established. Also,
21 it's important that the court-appointed CPA be placed in the
22 loop of information about these QSFs so that he can keep track
23 of the funds and find out where they're going and how they're
24 going out.

25 I meet with the CPA on a monthly basis to

1 discuss the filings with him, and the time put in, the expense
2 put in, and things of that sort; and another reason is to keep
3 track of these QSFs.

4 Let me hear from the bank representatives at
5 this time.

6 MR. HERMAN: Yes. Let me introduce to the Court the
7 president of Esquire Bank, Andrew Sagliocca.

8 MR. SAGLIOCCA: Good morning, Your Honor.

9 THE COURT: Good morning.

10 MR. SAGLIOCCA: I appreciate the time to speak to the
11 Court and present to the Court. The QSF banking program for
12 Esquire Bank is we have senior management involved in all QSF
13 programs, and the goal is always preservation of principal and
14 maintaining low fees so as not to eat into principal.

15 We have a very good understanding -- in-depth
16 understanding of the QSF programs. We've worked with multiple
17 programs, master settlement agreements; designed custom
18 applications and investment agreements. We've worked with
19 multiple blocking agreements and release documents; daily
20 coordinate with various CPAs, defense attorneys, plaintiff
21 attorneys, claims administrators; understand the release
22 document protocol; have a full suite of online banking
23 products; Positive Pay services, which are fraud protection
24 services; electronic statements.

25 The QSF team is a 24/7 team. So any of the

1 CPAs, claims administrators, counsel have full access to the
2 senior management team 24 hours a day 7 days a week with our
3 cell phones.

4 As I said, the goal is the preservation of
5 principal. That's our fiduciary responsibility to make sure we
6 do that with the claims administrator. So the products we
7 utilize, the combination of, are either 100 percent FDIC
8 insured, which are money market type products or certificate of
9 deposit type products. We also have a very strong relationship
10 with Federated, who manages almost half a trillion dollars in
11 funds.

12 We've primarily used Treasury funds, because
13 that's usually what the court directs, so that it's backed by
14 the full faith and security of the government.

15 Rates, Your Honor, for the products are at
16 historic lows at this time. The money market FDIC products are
17 around 5 basis points. And the Federated products, primarily
18 the Treasury obligation products, are around 1 basis point
19 because of the current rates on treasuries.

20 **THE COURT:** So you investment them in funds that are
21 secured by the United States?

22 **MR. SAGLIOCCA:** Yes. Yes.

23 **THE COURT:** Okay.

24 **MR. SAGLIOCCA:** The fees are minimal. We really
25 charge only fees to cover administrative costs. That's not our

1 primary generator of revenue. This is the way we work with
2 plaintiffs' counsel and defense counsel for our other products
3 and services. So this is more of an accommodation. So we
4 don't focus on the fees. They mainly surround wires and the
5 Positive Pay fraud protection, release and review, and a
6 minimum annual fee. Our goal is to minimize those expenses,
7 not to -- as I said, not to --

8 THE COURT: What are the fees based on? How do you
9 determine the fees?

10 MR. SAGLIOCCA: The fees are based on market type
11 fees. So wire fees are around \$20; Positive Pay fees, which is
12 fraud protection, it's is required, is around \$40 a month;
13 release fees, \$20; and an annual fee of only \$100.

14 Every one of them, Your Honor, we've worked with
15 the courts and the claims administrators, if either/or saw fit
16 that these fees were too high -- as I said, they're not to
17 generate revenue, but just to cover costs and recover costs.

18 We currently manage about 22 QSFs, including
19 Avandia, Byetta, Chantix, Yaz; work with various CPAs and
20 claims administrators; and again, always, always, always
21 preservation of principal. Always.

22 The bank itself, away from using the Treasury
23 funds and the FDIC insured funds, is a very, very safe, secure
24 bank. Our capital position is almost double what the
25 regulators want us to be at. We have a high level of

1 liquidity, and virtually no -- 1 basis point of problem assets.
2 We have one problem loan. We don't want to focus our time on
3 managing problem loans like the rest of the industry. We're
4 regulated by the OCC, the Office of Comptroller Currency. We
5 also have annual audits.

6 The presentation, for the record, has a board of
7 directors, the management team in it, which I won't spend any
8 time, unless the Court wants me to.

9 THE COURT: All right. What's the capitalization of
10 the bank?

11 MR. SAGLIOCCA: It's about 10 percent of our assets
12 is in capital, which the minimum standards from the regulators
13 are around 5 percent.

14 THE COURT: Okay. Thank you very much for being here
15 today.

16 MR. SAGLIOCCA: Thank you, Your Honor.

17 MR. HERMAN: Your Honor, with respect to the QSFs,
18 there two comments I'd like to make for those in the courtroom,
19 those listening, and for the record, and that is there are a
20 number of fee funds set up, and no fees may be paid from any of
21 these fee funds except through application to the Court,
22 motion, hearing, and subject to court order.

23 In terms of funds to claimants as certified by
24 BrownGreer, they go through a process, then BrownGreer issues a
25 directive to the bank, and that's the process for paying funds

1 that inure to the benefit of eligible claimants.

2 **THE COURT:** Okay. Our next item was pilot program.
3 Anything on the pilot prom?

4 **MR. PIPES:** Your Honor, before we get off the QSFs, I
5 just wanted to clarify something on the Interior Exterior QSF.

6 Minor Pipes on behalf of the insurance liaison
7 counsel; in this case on behalf of Liberty Mutual.

8 Liberty Mutual and the other defendants that
9 settled that case noticed that in the three QSFs that dealt
10 with the InEX, there was a provision in it that said that the
11 defendants would pay the costs for Esquire Bank and for
12 BrownGreer.

13 Actually, the agreement's called for that to
14 come out of the settlement fund that they're paying. The PSC
15 has clarified that the payment of the Esquire Bank and
16 BrownGreer fees by the InEx defendants referenced in Paragraph
17 9A and 9B of the three QSF orders is to be made out of the
18 settlement funds provided for in the InEX settlement agreement
19 and it's not in addition to those funds.

20 I just wanted to clarify that.

21 **MR. DAVIS:** We did address that earlier this week.
22 The intent is that the funds come in through the settlement
23 funds, and it is paid through the settlement funds, which is
24 through InEX.

25 **THE COURT:** Right. I saw that.

1 **MR. PIPES:** Thank you.

2 And, Your Honor, just an update on the Global.
3 We are working with the PSC and we'll file a motion soon to
4 fund those settlements.

5 **THE COURT:** All right. Anything on the pilot
6 program?

7 **MR. MILLER:** Good morning, Your Honor. Kerry Miller
8 on behalf of Knauf.

9 It's basically as Russ Herman summarized. It
10 continues to work. Last week Moss pulled its 2,000th, the
11 number 2,000, permit in working on houses. However, the number
12 of houses coming into the program has slowed down. They are
13 down now to about 40 new homes a month.

14 **THE COURT:** Okay. By and large, that program has
15 worked well. I know that there are some folks who feel that
16 they should get their homes repaired more quickly. But in view
17 of the numbers, they're doing about the best they can with it.
18 But if they do have any problems with it, we have the
19 appropriate channels that they can go to to make themselves
20 heard.

21 **MR. MILLER:** Your Honor, just to echo Mr. Herman's
22 comments in terms of anyone who is in the original omnibus
23 class actions that were settled as part of the Knauf
24 settlement: If claimants, homeowners, plaintiffs out there do
25 seek remediation, they shouldn't wait. They should do so now.

1 Because it's to a point now where their house can be acted on
2 pretty quickly.

3 THE COURT: Okay. Anything on the InEX, Banner,
4 Knauf, L&W, and Global settlements? I have that on the
5 program.

6 MR. HERMAN: May it please the Court, nothing at this
7 time.

8 THE COURT: Anything on the shared cost fund?

9 MR. HERMAN: Nothing at this time, Your Honor.

10 THE COURT: Venture and Hobbie? Anything on the
11 settlements of that?

12 MR. HERMAN: I believe, Your Honor --

13 THE COURT: I think we've covered that.

14 MR. LEVIN: Just a report on the proceedings in the
15 Fifth Circuit, Your Honor.

16 THE COURT: Yes.

17 MR. LEVIN: Argument has been set on the *Germano*
18 class action and the default judgment and the issue of personal
19 jurisdiction for October 9th in the Fifth Circuit court, and
20 they're sitting in New Orleans that day.

21 The Plaintiffs' Steering Committee had made a
22 motion to consolidate the *Germano*, along with *Wiltz*, *Gross* and
23 *Mitchell*, and the Court denied our motion. After the Court set
24 this hearing on October 9th, we have a renewed motion to
25 consolidate the three remaining appeals and to stay panel

1 decision on those appeals until such time as the panel in
2 *Germano* issues its opinion. That is pending.

3 Also, there is a collateral appeal of Judge
4 Farina's order in Miami-Dade. And that order, Lennar brought
5 that before the court, an appeal was taken, and the court will
6 per cur in favor of personal jurisdiction. And it's my
7 understanding, as has been explained to me by Florida lawyers,
8 that a per cur opinion is not appealable. So that is basically
9 set in stone.

10 That appeal, the first cite on the per cur was
11 Your Honor's opinion before this district court.

12 There is -- I guess we can go into the Hobbie
13 issue, Your Honor.

14 THE COURT: Sure.

15 MR. LEVIN: Mr. Mason is here. I guess I could say
16 it. The defendants failed to file a CAFA report with the
17 various parties that require it, the Attorney Generals, and as
18 a result, that order has been vacated by Your Honor. As soon
19 as they file that order, I am sure Mr. Mason will notify you --
20 file that report, and receive the word from the recipients of
21 that report, within hours, Mr. Mason will inform the Court.

22 THE COURT: When are we expecting that?

23 MR. LEVIN: October 7th.

24 THE COURT: All right. Anything from the pro se?

25 MR. HERMAN: Your Honor, I'd like to go back --

1 **THE COURT:** All right.

2 **MR. HERMAN:** -- to Item No. 10, Venture Supply and
3 Porter Blaine defendants. These defendants primarily were
4 distributors or importers of Taishan products. We've received
5 various requests for distributors and others that have
6 depositories of Taishan drywall to dispose of that drywall.

7 The PSC has not agreed to that, not out of
8 obstinacy, but we have four appeals now pending that involve
9 Taishan. Our concern would be that counsel for Taishan has
10 argued in its briefs that there's no proof that their drywall
11 actually got to the distributors and then was installed. So
12 we're acting in an abundance of caution with respect to saying,
13 please, don't get rid of Taishan drywall.

14 **MR. LEVIN:** One additional factor with regard to
15 that, Your Honor. Venture and Porter Blaine are suing Taishan.
16 They've appeared in Hong Kong to ask questions, but didn't ask
17 questions with regard to their pursuit of Taishan.

18 It seems to me if they are pursuing Taishan,
19 they would want the board. I think this is just a way of
20 trying to shift the costs of warehousing that board to the
21 Plaintiffs' Steering Committee.

22 **THE COURT:** Anybody from Venture want to speak on
23 that issue?

24 If they have a problem, I'll entertain it. But
25 I do think it's necessary to keep some evidence. I don't know

1 whether if it's millions of board feet, that you need that
2 much. But I do think that until the smoke clears, so to speak,
3 on this aspect of the case, it would be helpful to everybody,
4 including Venture, to keep the material.

5 If it becomes overly burdensome, I'll listen to
6 some possibility of representative samples, with photographs,
7 and things of that sort, reports. That might do something.
8 But until I hear some severe problem created by it, I'll expect
9 them to keep the material.

10 MR. HERMAN: Your Honor, I brought this up in
11 connection with Venture and Porter Blaine, but there are
12 distributors in other states that do have Taishan product
13 presently, and we've taken the same position.

14 THE COURT: All right.

15 MR. HERMAN: Nothing new, Your Honor, on profile
16 forms.

17 On "Frequently Asked Questions," Arnold Levin,
18 lead counsel for plaintiffs, mentioned that the *Germano* hearing
19 is on October 9th and that was to be our next status
20 conference. We ask the Court either for a new date, or maybe
21 that afternoon we can meet, whatever Your Honor's pleasure is.

22 THE COURT: I thought it was Thursday, October the
23 24th.

24 MR. LEVIN: It happens with us at this age, Your
25 Honor. He's speaking of Vioxx.

1 **MR. HERMAN:** What am I doing? I don't know where I
2 am. I don't know what I'm saying. Obviously, it's now on the
3 record that I'm not in compass, and I've been hit on the head
4 by my co-counsel, and everybody in the jury box is laughing at
5 me, and that's not new in my career.

6 **THE COURT:** So with that we'll hear from pro se.

7 **MR. JOHNSTON:** Your Honor, Bob Johnston, curator for
8 pro se's. Before I make my brief comments related to pro se's,
9 I'd like the Court to know, and I think you know personally,
10 that Russ Herman and I go back a long, long way, and he used to
11 be really sharp. So I . . .

12 **THE COURT:** Well, you told me he looked at your
13 papers, that's why he was sharp.

14 **MR. JOHNSTON:** He did that a couple of times.

15 **MR. HERMAN:** If I'd have done that, I wouldn't have
16 graduated.

17 **MR. JOHNSTON:** His downfall started when we drank too
18 much beer in law school.

19 All right. Your Honor, I have filed the Curator
20 Status Report No. 19. As I would believe you would expect,
21 we've had a very active last month. Two letters have been sent
22 out by me, which I have attached to the curator's report.

23 The first related to the *Beane* settlement and
24 went out to every pro se, less than 100, listed in Exhibits A
25 and B as having been able to participate in the *Beane*

1 settlement, essentially telling them very strongly, you better
2 get your opt-in forms by the 12th or 11th of September.

3 But the next was even bigger, and that is, and
4 it relates to what the Court has expressed as some significant
5 concerns, about the completion of the claim filing process by
6 those who have registered, and we saw the numbers that Lynn
7 Greer put up on the screen.

8 I have interacted with Russ Herman. It was
9 agreed that it would be very important for me to send
10 communication to every pro se plaintiff who had timely
11 registered, did not have counsel, and may well not be aware of
12 the September 30th deadline.

13 So I drafted a letter, which is also attached,
14 and the reference is about as strong as I could make it, with
15 the assistance of Russ Herman. It says: "Reference: Be aware
16 of the September 30th, 2013 deadline for submitting Chinese
17 Drywall claim forms."

18 I sent out 887 of those letters to every pro se
19 who we had addresses for. I also interacted directly with the
20 BrownGreer personnel and attached to those letters the
21 specifics of what BrownGreer is looking for with regard to
22 documentary evidence, proving photographs; and that also
23 included a number of color photographs which was put up on the
24 Web site as samples.

25 So having done that this morning, Lynn Greer and

1 I talked. The number that you saw up on the screen was 1,102.
2 My office has checked, and I think there are a number of
3 duplications, but we're going to get it straight, because we've
4 got 13 more days.

5 I simply wanted to take the time to talk to the
6 Court relating to this because Russ Herman's concern, Kerry
7 Miller's concern, both sides, and certainly my concern is to
8 not stay passive, because there is a deadline that is fast
9 approaching. So we have taken very affirmative actions. We'll
10 continue to do so. That's the role that the Court asked me to
11 do. Obviously the uptake that we've had has been significant.
12 I've spent a lot of time talking to individuals, but I think
13 we've made a lot of progress.

14 With that, that's the report that I have for
15 this month.

16 **THE COURT:** Okay. Well, thank you very much for all
17 your help on this one.

18 **MR. JOHNSTON:** Sure.

19 **THE COURT:** We talked about the physical evidence,
20 the preservation order.

21 The entry of preliminary default. Can you tell
22 me about that? This is a motion to default Taishan -- or some
23 other entities, including Taishan.

24 **MR. LEVIN:** Your Honor, the PSC tracks service by our
25 process server, APS, for foreign service pursuant to the Hague.

1 Periodically, after service has been made, as a matter of
2 housekeeping, we file for preliminary defaults.

3 We request that the Court not enter anything on
4 that order other than to keep it in place. Since filing it, we
5 received an answer from a Chinese defendant. Unfortunately, it
6 wasn't Taishan or NBM or CNBM, but we will correct that order
7 with regard to that, but just hold it in place. There's no use
8 of creating work for the Court and for counsel, especially
9 while the appeals are pending in the Fifth Circuit.

10 THE COURT: Yes. I'm going to stay that order. I
11 don't know whether the appeal has any effect on it; but, in any
12 event, I don't see any reason to act on that order, so I will
13 stay it.

14 MR. LEVIN: Thank you, Your Honor.

15 THE COURT: Anything on already remediated homes that
16 we haven't talked about?

17 MR. HERMAN: I believe it's already been addressed,
18 Your Honor, by Kerry Miller.

19 THE COURT: Okay. We have some motions. I'll take
20 those in a moment.

21 Our next meeting is October the 24th. The
22 November meeting is November the 21st. October 24th and
23 November 21st. I'll take a five-minute break here and come
24 back and we'll take up the motions. Court will stand in
25 recess.

1 THE DEPUTY CLERK: All rise.

2 (WHEREUPON, the proceedings were concluded.)

3 * * * * *

4 *****

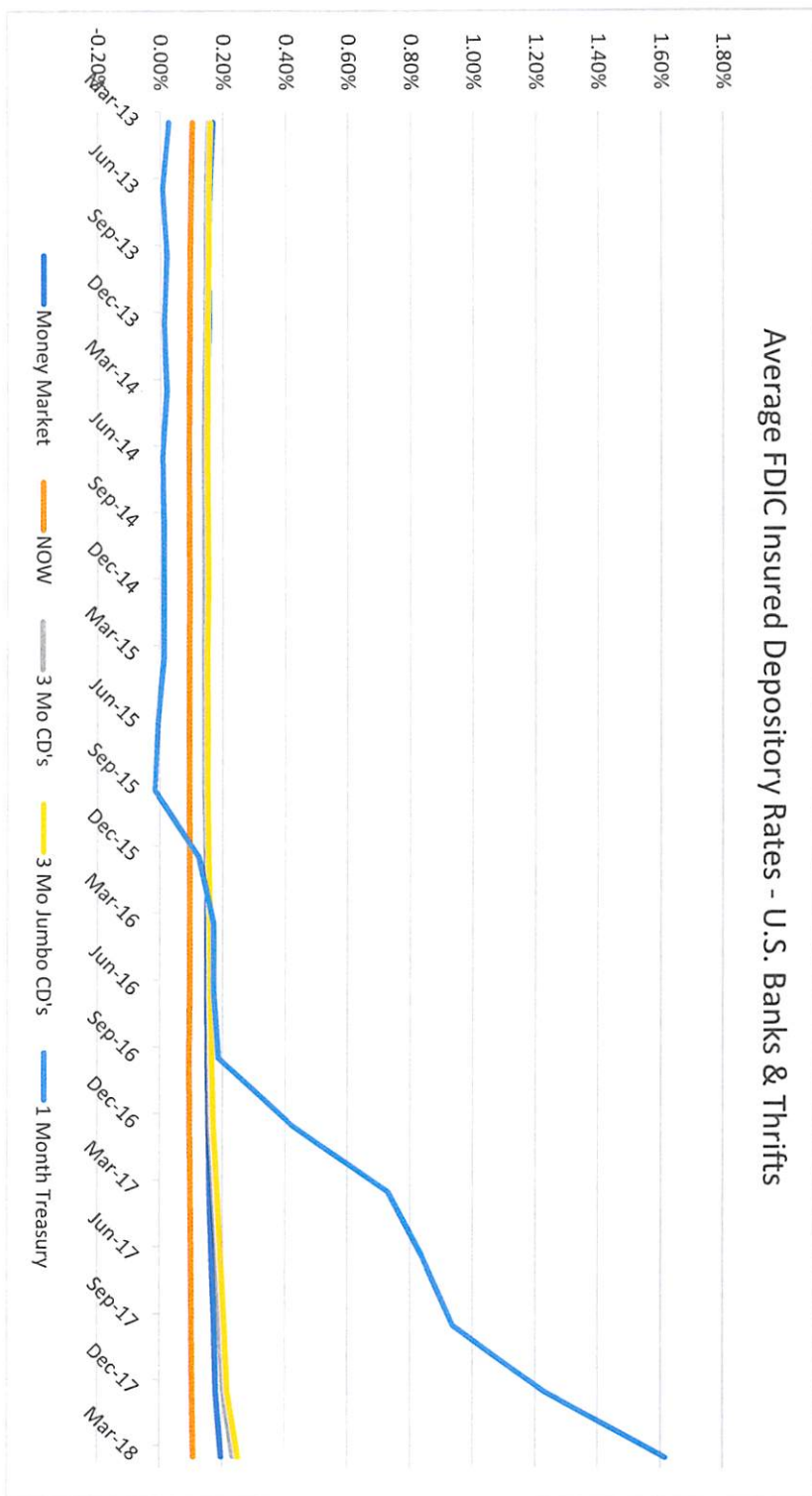
5 **CERTIFICATE**

6 I, Jodi Simcox, RMR, FCRR, Official Court Reporter
7 for the United States District Court, Eastern District of
8 Louisiana, do hereby certify that the foregoing is a true and
9 correct transcript, to the best of my ability and
10 understanding, from the record of the proceedings in the
11 above-entitled and numbered matter.

12
13
14 *Jodi Simcox, RMR, FCRR*
15 Jodi Simcox, RMR, FCRR
16 Official Court Reporter
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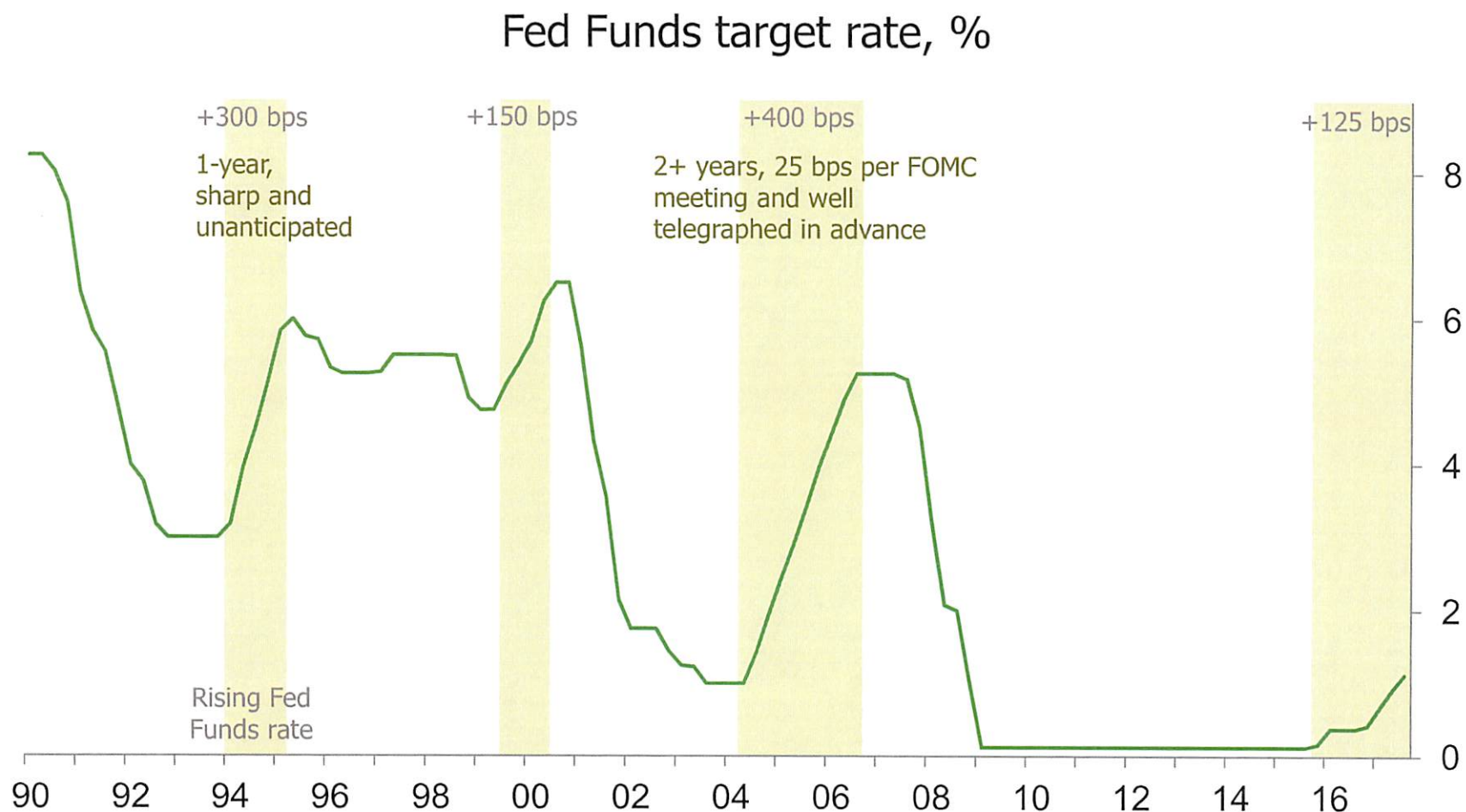
JODI SIMCOX, RMR, FCRR - OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

Average FDIC Insured Depository Rates - U.S. Banks & Thrifts



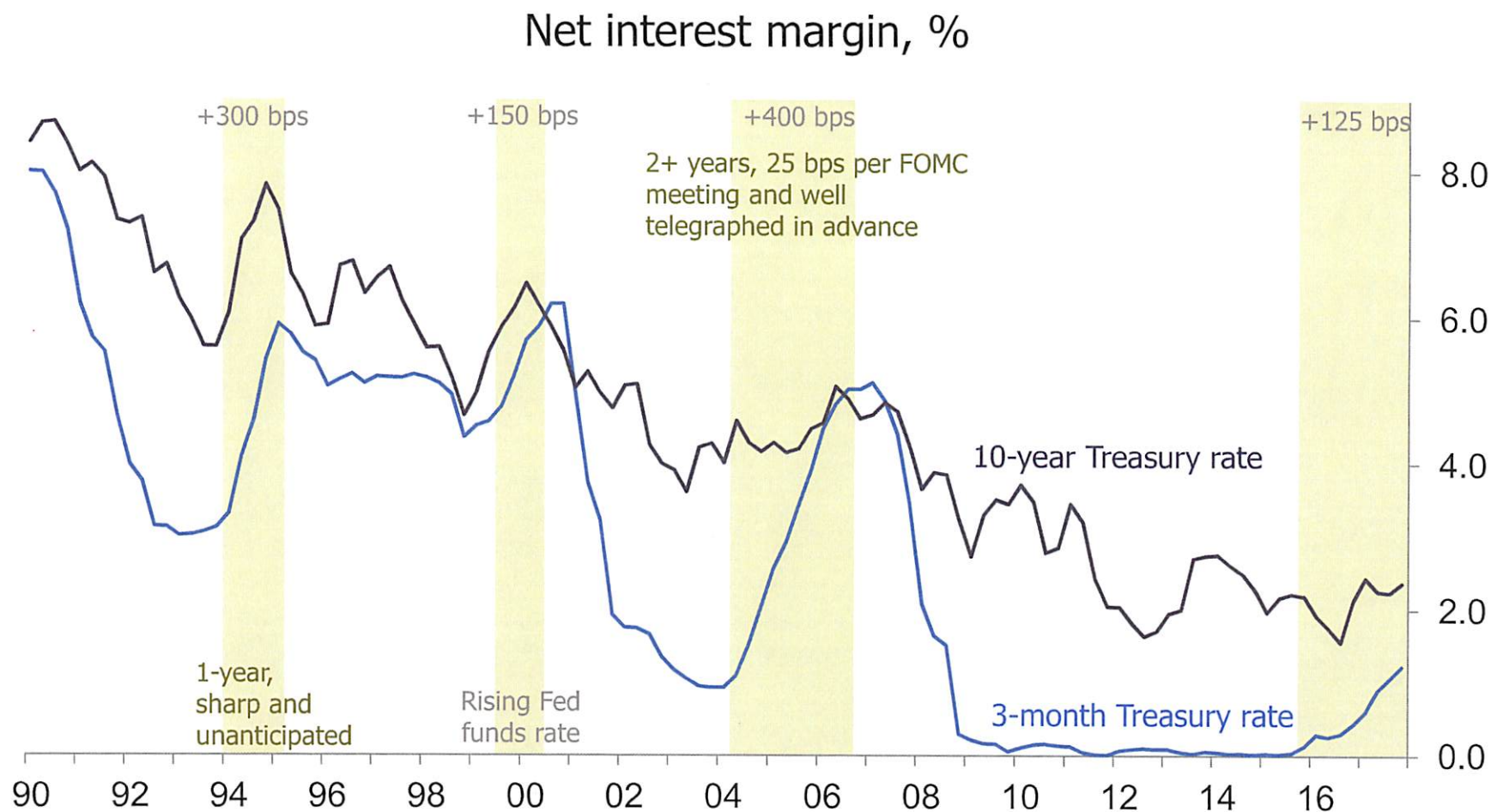
Source: S&P Global Market Intelligence & Bloomberg

Monetary policy tightening cycles differ by starting level, amount, pace and duration



Source: Federal Reserve Board (data through 4Q:17; periods and change based on monthly data through January 2017)

Treasury yield curve usually flattens as Fed tightens



Source: Call Reports

The income earned on the Knauf Attorney Fee deposit increases year to year as interest rates rise. Please note the table below:

	<u>Avg. Balance</u>	<u>Income</u>	<u>YOY Change</u>
2014 (a)	118,824,875	8,696	
2015	139,575,653	23,083	165%
2016	186,898,965	34,038	47%
2017	190,375,689	169,049	397%
2018 (b)	189,578,157	673,971	299%

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHINESE MANUFACTURED DRYWALL : MDL NO. 2047
PRODUCTS LIABILITY LITIGATION :
 : SECTION: L
 :
 : JUDGE FALLON
 : MAG. JUDGE WILKINSON
..... :

AFFIDAVIT OF JACOB S. WOODY

COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO, to-wit:

Jacob S. Woody, of full age, being duly sworn, upon his oath deposes and says:

1. My name is Jacob S. Woody. I am a Senior Counsel at BrownGreer PLC, located at 250 Rocketts Way, Richmond, Virginia. I am responsible for the day to day operation of the Chinese Drywall Settlement Program.

2. The matters set forth in this Affidavit are based upon my personal knowledge.

3. I have worked with Esquire Bank since 2013 as part of my duties in administering the Chinese Drywall Settlement Program.

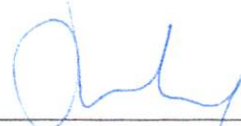
4. Payments disbursed from Chinese Drywall QSFs have been voluminous and complex, and I have found Esquire Bank staff to be cooperative, helpful, and efficient.

5. I have worked with other banks on other Settlement Programs and have found Esquire Bank to have a higher level of responsiveness and customer service than other banks I have worked with. This has improved the efficiency of the payment disbursement process and payments have been disbursed quickly and without delay, in part due to Esquire Bank's high level of service.

EXHIBIT
D

6. I have never been instructed by any member of the Plaintiff's Steering Committee or anyone else to withhold information related to inquiries regarding Esquire Bank's administration of any Chinese Drywall QSF.

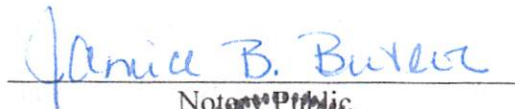
Executed on June 8, 2018.



Jacob S. Woody

COMMONWEALTH OF VIRGINIA
COUNTY OF HENRICO, to-wit

Sworn to and subscribed before me, the undersigned authority, on this 8th day of June 2018.



Notary Public

My commission expires: 12-31-20

Registration Number: 320046

