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UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

SECURITIES AND EXCHANGE
COMMISSION,

No. C 12-80087 CRB (LB)

Applicant,

v.

**NOTICE OF REFERRAL AND
ORDER RE DISCOVERY
PROCEDURES**

WELLS FARGO & COMPANY,

Respondent.

TO ALL PARTIES AND COUNSEL OF RECORD:

The district court has referred Applicant Securities and Exchange Commission’s (the “Commission”) application for an order compelling compliance with administrative subpoenas, electronically filed on March 23, 2012, which is a discovery matter (notwithstanding the Commission’s statement otherwise, *see* Application, ECF No. 1 at 2), to United States Magistrate Judge Laurel Beeler. Referral Order, ECF No. 5.¹ The Commission requested oral argument, but no hearing has been set.

The Court **DENIES** the pending discovery motion without prejudice and directs the parties to comply with the procedures for addressing discovery disputes set forth in Judge Beeler's standing order (attached). Those procedures require, among other things, that if a meet-and-confer by other means does not resolve the parties’ dispute, lead counsel for the parties must meet and confer **in person**. If that procedure does not resolve the disagreement, the parties must file a joint letter brief

¹ Citations are to the Electronic Case File (“ECF”) with pin cites to the electronic page number at the top of the document, not the pages at the bottom.

1 instead of a formal motion. The letter brief must be filed under the Civil Events category of
2 “Motions and Related Filings > Motions – General > Discovery Letter Brief.” After reviewing the
3 joint letter, the Court will evaluate whether further proceedings are necessary, including any further
4 briefing or argument.

5 **IT IS SO ORDERED.**

6 Dated: March 29, 2012



LAUREL BEELER
United States Magistrate Judge

UNITED STATES DISTRICT COURT
For the Northern District of California

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO

4 **STANDING ORDER FOR**
5 **UNITED STATES MAGISTRATE JUDGE LAUREL BEELER**
6 *(Effective March 20, 2012)*

7 Parties shall comply with the procedures in the Federal Rules of Civil or Criminal Procedure, the
8 local rules, the general orders, this standing order, and the Northern District’s general standing order
9 for civil cases titled “Contents of Joint Case Management Statement.” Local rules, general orders,
10 general standing orders, and a summary of the general orders’ electronic filing requirements (including
11 the procedures for emailing proposed orders to chambers) are available at <http://www.cand.uscourts.gov>
12 (click “Rules” or “ECF-PACER”). The parties’ failure to comply with any of the rules and orders may
13 be a ground for monetary sanctions, dismissal, entry of judgment, or other appropriate sanctions.

14 **A. CALENDAR DATES AND SCHEDULING**

15 1. The criminal motions calendar is on the first and third Thursdays of the month at 9:30 a.m. The
16 civil motions calendar is on the first and third Thursdays of the month at 11 a.m. Civil case management
17 conferences are Thursdays at 10:30 a.m. and are not recorded unless a party is pro se or unless counsel
18 requests recording.

19 2. Parties who notice motions under the local rules need not reserve a hearing date in advance if
20 the date is available on the Court’s on-line calendar (click “Calendars” at
21 <http://www.cand.uscourts.gov>). Depending on its schedule, the Court may reset or vacate hearings.

22 3. For scheduling questions, please call Judge Beeler’s courtroom deputy, Lashanda Scott, at
23 (415) 522-3140.

24 **B. CHAMBERS COPIES**

25 4. Under Civil Local Rule 5-1(b), parties must lodge an extra paper copy of any filing and mark
26 it as a copy for “Chambers.” Please three-hole punch the chambers copy.
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1 **C. CIVIL DISCOVERY**

2 5. **Evidence Preservation.** After a party has notice of this order, it shall take the steps needed to
3 preserve information relevant to the issues in this action, including suspending any document destruction
4 programs (including destruction programs for electronically-maintained material).

5 6. **Production of Documents In Original Form.** When searching for documents and material
6 under Federal Rule of Civil Procedure 26(a)(1) or after a Federal Rule of Civil Procedure 34(a) request,
7 parties (a) should search all locations – electronic and otherwise – where responsive materials might
8 plausibly exist, and (b) to the maximum extent feasible, produce or make available for copying and/or
9 inspection the materials in their original form, sequence, and organization (including, for example, file
10 folders).

11 7. **Privilege Logs.** If a party withholds material as privileged, *see* Fed. R. Civ. P. 26(b)(5) and
12 45(d)(2)(A), it must produce a privilege log as quickly as possible, but no later than fourteen days after
13 its disclosures or discovery responses are due, unless the parties stipulate to or the Court sets another
14 date. Privilege logs must contain the following: (a) the subject matter or general nature of the document
15 (without disclosing its contents); (b) the identity and position of its author; (c) the date it was
16 communicated; (d) the identity and position of all addressees and recipients of the communication;
17 (e) the document’s present location; (f) the specific privilege and a brief summary of any supporting
18 facts; and (g) the steps taken to ensure the confidentiality of the communication, including an
19 affirmation that no unauthorized persons received the communication.

20 8. **Expedited Procedures for Discovery Disputes.** The parties shall not file formal discovery
21 motions. Instead, and as required by the federal rules and local rules, the parties shall meet and confer
22 to try to resolve their disagreements. *See* Fed. R. Civ. P. 37(a)(1); Civil L. R. 37-1. After attempting
23 other means of conferring such as letters, phone calls, or emails, lead counsel for the parties must meet
24 and confer **in person**. (If counsel are located outside of the Bay Area and cannot confer in person, lead
25 counsel may meet and confer by telephone.) Either party may demand such a meeting with ten days'
26 notice. If the parties cannot agree on the location, the location for meetings shall alternate. Plaintiff's
27 counsel shall select the first location, defense counsel shall select the second location, and so forth. If
28 the parties do not resolve their disagreements through this procedure, the parties shall file a joint letter

1 brief of **no more than five pages** instead of a formal motion five days after lead counsels' in-person
2 meet-and-confer. The letter brief must be filed under the Civil Events category of "Motions and Related
3 Filings > Motions – General > Discovery Letter Brief." Lead counsel for both parties must sign the
4 letter and attest that they met and conferred in person. The joint letter shall set out each issue in a
5 separate section and include in that section each parties' position (with appropriate legal authority) and
6 proposed compromise. (This process allows a side-by-side analysis of each disputed issue.) If the
7 disagreement concerns specific discovery that a party has propounded, such as interrogatories, requests
8 for production of documents, or answers or objections to such discovery, the parties shall reproduce the
9 question/request and the response in its entirety in the letter. The Court then will review the letter and
10 determine whether future proceedings are necessary. In emergencies during discovery events such as
11 depositions, the parties may contact the Court pursuant to Civil Local Rule 37-1(b).

12 **D. CONSENT CASES**

13 9. In cases that are randomly assigned to Judge Beeler for all purposes, the parties should file their
14 written consent to the assignment of a United States Magistrate Judge for all purposes, or their written
15 declination of consent, as soon as possible. If a party files a dispositive motion (such as a motion to
16 dismiss or a motion for remand), the moving party must file the consent or declination simultaneously
17 with the motion. Similarly, the party opposing the motion must file the consent or declination
18 simultaneously with the opposition.

19 10. The first joint case management conference statement in a case must contain all of the
20 information in the Northern District's standing order titled "Contents of Joint Case Management
21 Statement." Subsequent statements for further case management conferences should not repeat
22 information contained in an earlier statement and instead should report only progress or changes since
23 the last case management conference and any new recommendations for case management.

24 **E. SUMMARY JUDGMENT MOTIONS**

25 11. Motions for summary judgment shall be accompanied by a joint statement of the material facts
26 that the parties agree are not in dispute. The joint statement shall include – for each undisputed fact –
27 citations to admissible evidence. The parties shall comply with the procedures set forth in Civil Local
28 Rule 56-1(b). The parties may not file – and the Court will not consider – separate statements of

1 undisputed facts. Failure to stipulate to an undisputed fact without a reasonable basis for doing so may
2 result in sanctions. *See* Civil L. R. 56-1(b).

3 IT IS SO ORDERED.



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5 LAUREL BEELER
United States Magistrate Judge

United States District Court
For the Northern District of California

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