UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ALYSSON MILLS, IN HER CAPACITY AS RECEIVER FOR ARTHUR LAMAR ADAMS AND MADISON TIMBER PROPERTIES, LLC, Plaintiffs, v. THE UPS STORE, INC.; HERRING VENTURES, LLC d/b/a/ THE UPS STORE; AUSTIN ELSEN; TAMMIE ELSEN; COURTNEY HERRING; DIANE LOFTON; CHANDLER WESTOVER; RAWLINGS & MACINNIS, PA; TAMMY VINSON; and JEANNIE CHISHOLM, Defendants.	Case No. 3:19-cv-364-CWR-FKB Arising out of Case No. 3:18-cv-252, *Securities and Exchange Commission v. Arthur Lamar Adams and Madison Timber Properties, LLC* Hon. Carlton W. Reeves, District Judge
ALYSSON MILLS, IN HER CAPACITY AS RECEIVER FOR ARTHUR LAMAR ADAMS AND MADISON TIMBER PROPERTIES, LLC, Plaintiffs, v. BUTLER SNOW LLP; BUTLER SNOW ADVISORY SERVICES, LLC; MATT THORNTON; BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC; ALEXANDER SEAWRIGHT, LLC; BRENT ALEXANDER; and JON SEAWRIGHT, Defendants. [*Caption Continued on Next Page*]	Case No. 3:18-cv-866-CWR-FKB Arising out of Case No. 3:18-cv-252, *Securities and Exchange Commission v. Arthur Lamar Adams and Madison Timber Properties, LLC* Hon. Carlton W. Reeves, District Judge

ALYSSON MILLS, IN HER CAPACITY AS RECEIVER FOR ARTHUR LAMAR ADAMS AND MADISON TIMBER PROPERTIES, LLC, Plaintiffs, v. BANKPLUS; BANKPLUS WEALTH MANAGEMENT, LLC; GEE GEE PATRIDGE, VICE PRESIDENT AND CHIEF OPERATING OFFICER OF BANKPLUS; STEWART PATRIDGE; JASON COWGILL; MARTIN MURPHREE; MUTUAL OF OMAHA INSURANCE COMPANY; and MUTUAL OF OMAHA INVESTOR SERVICES, INC., Defendants.	Case No. 3:19-cv-196-CWR-LGI Arising out of Case No. 3:18-cv-252, *Securities and Exchange Commission v. Arthur Lamar Adams and Madison Timber Properties, LLC* Hon. Carlton W. Reeves, District Judge
ALYSSON MILLS, IN HER CAPACITY AS RECEIVER FOR ARTHUR LAMAR ADAMS AND MADISON TIMBER PROPERTIES, LLC, Plaintiffs, v. TRUSTMARK NATIONAL BANK; BENNIE BUTTS; JUD WATKINS; SOUTHERN BANCORP BANK and RIVERHILLS BANK Defendants.	Case No. 3:19-cv-941-CWR-FKB Arising out of Case No. 3:18-cv-252, *Securities and Exchange Commission v. Arthur Lamar Adams and Madison Timber Properties, LLC* Hon. Carlton W. Reeves, District Judge

THE UPS STORE, INC.'S REPLY IN SUPPORT OF ITS MOTIONS (1) TO CONSOLIDATE ACTIONS, AND (2) TO STAY OR TO MODIFY CASE SCHEDULE

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Since the filing of TUPSS, Inc.'s Motions to Consolidate Actions and to Stay or Modify Case Schedule (the "Motions"), a number of issues have become clarified, and there are only a few matters in dispute.

I. THE PARTIES AGREE THE COURT SHOULD ENTER A CONSOLIDATION ORDER

First, the parties in each of the actions (including Plaintiff Alysson Mills) agree that *Mills v. The UPS Store, Inc., et al.*, No. 3:19-cv-364 (S.D. Miss.) (the "Notary Public Action"); *Mills v. Butler Snow LLP, et al.*, No. 3:18-cv-866 (S.D. Miss.) (the "Baker Donelson Action"); *Mills v. Trustmark Nat'l Bank, et al.*, No. 3:19-cv-941 (S.D. Miss.) (the "Trustmark Action"), and *Mills v. BankPlus, et al.*, No. 3:19-cv-196 (S.D. Miss.) (the "BankPlus Action") (together, the "Investor Loss Cases") should be consolidated for discovery, and the Court has indicated that consolidation will be ordered.

No party disputes that other pre-trial proceedings should be coordinated as well. Thus, TUPSS, Inc. submits that the other dates in the new scheduling order (e.g. summary judgment deadlines) should be common as well.

Regarding trial, TUPSS, Inc.'s Motion did not seek at this time to consolidate cases for trial (although it reserved the right to seek such an order depending on how the cases unfold). But because other parties affirmatively argue that the cases should not be consolidated for trial, TUPSS, Inc. explains why consolidation of cases for trial will likely be necessary if there are still numerous defendants being sued for negligence at the time of trial.

Plaintiff has sued 30 separate parties in these four cases. One of Plaintiff's theories in each of the four cases is that each of those 30 parties' negligent conduct caused investor losses of allegedly $100 million. Plaintiff concedes that, on a negligence

claim, fault must be apportioned among all wrongdoers as well as the injured party. (*See* Notary Public Action ECF No. 288 at 11 ("The Receiver acknowledges that for negligent, as opposed to willful, acts, a defendant is entitled to apportion fault."). Mississippi Model Jury Instructions confirm the point. (*See* Declaration of Mark R. McDonald ¶ 7, dated September 14, 2021 ("McDonald Decl."), Ex. A.) Those Model Instructions require the jury to determine whether the injured party, each defendant party, and any non-parties were negligent, and requires the jury to determine the percentage of fault of each person whose conduct was a substantial factor in causing the alleged damages. (*See id.*) The Model Instructions also require that a jury consider whether a defendant's conduct was the proximate cause of damages, and whether there were any superseding causes of damages. (*See id.*)

Under Plaintiff's proposed plan to proceed to trial first and only against the Notary Public Action defendants, that jury would thus have to determine (1) as to each timber deed at issue, whether the notary public who acknowledged it acted negligently; (2) whether that notary's allegedly negligent acknowledgement was a proximate cause of losses incurred by the investor who loaned money to Adams secured by that particular timber deed; (3) if so, whether the investor also acted negligently when he or she loaned money to Adams; (4) whether the investor's negligence was a substantial factor in causing his or her losses; (5) whether any of the other defendants in the Notary Public Action acted negligently in connection with the transaction (since Plaintiff has pleaded a negligence claim against each of the ten defendants); (6) whether any of those other defendants' negligence was a substantial factor in causing that investor's losses; (7) whether the 20 defendants in the other 3 cases acted negligently (it will be the position of

TUPSS, Inc. that Plaintiff is judicially estopped from contesting that each of them was negligent given Plaintiff's federal court pleadings asserting they were all negligent); (8) whether the negligence of any of those 20 other defendants was a substantial factor in causing the particular investor's losses (Plaintiff should be estopped from contesting that as well given her pleadings); (9) whether any other non-party acted negligently (e.g., McHenry); (10) whether any of those non-party's negligence was a cause of an investor's loss; (11) as to each person's negligent conduct, what percentage fault to attribute to each such person; and (12) whether there were any superseding causes (e.g., Arthur Lamar Adams' running a Ponzi scheme or the alleged intentional torts [conspiracy etc.] allegedly committed by the other parties) that caused that investor's loss. *See Dodson v. GMC*, No. 96-CA-00051 COA, 1997 Miss. App. LEXIS 969, at *42 (Miss. Ct. App. Aug. 12, 1997) ("'The act of a third person in committing an intentional tort or crime is a superseding cause . . . unless the actor at the time of his negligent conduct realized or should have realized the likelihood that such a situation might be created, and that a third person might avail himself of the opportunity to commit such a tort or crime." (quoting Restatement (Second) of Torts § 448).) Thus if the cases are not consolidated for trial, the jury in the first trial will have to resolve every issue presented in all the cases.

Plaintiff complains that TUPSS, Inc. will seek to "point fingers" at all these other parties, but Plaintiff herself has accused each of every one of those other parties of causing the investor losses she seeks to recover. Surely, Plaintiff and her counsel did not believe that each of the 30 defendants she has sued would sit mutely as Plaintiff argues that each of those 30 defendants should be held 100% liable for $100 million. Plaintiff

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may imagine that her trial plan will give her four "bites at the apple," but it simply will not work like that. And her efforts to press for a trial plan like that is inviting error.

Thus, there is no question that whether or a consolidated trial is conducted, any jury will have to consider and determine numerous parties' negligence and apportion liability. No party argues to the Court that it is sensible or fair to have four separate juries address the same issues.

There are numerous difficult questions that would follow a proposed initial trial where only a few defendants participated as parties. Would a defendant in the other actions who was satisfied with how the jury in the first trial answered the question about that party's negligence be able to invoke offensive collateral estoppel, arguing that Plaintiff had a full and fair opportunity to address that defendant's negligence in the first trial? If, on the other hand, the jury were to attribute substantial fault to a party not a defendant in that first trial, Plaintiff presumably would not be able to use that result, since none of the defendants in those other cases would have been a party in that first trial. What if Plaintiff were successful in arguing that notary public "x," who acknowledged, say, 35 timber deeds used by Adams, was negligent and was 100% responsible for investor losses of, say, $10 million, and that none of the other defendants in any of those cases bore any responsibility, but the jury agreed with TUPSS, Inc. that it did not control the day-to-day work of that quasi-state official who was employed by Herring Ventures and not by TUPSS, Inc.? Given that those notaries public would be effectively judgment proof for the exorbitant damages Plaintiff is seeking, Plaintiff's judgment against the notary would be virtually worthless. Would Plaintiff be permitted to proceed to another trial and take a completely different position, namely that those other defendants in trial

two were negligent and caused the investor losses after the first jury found a notary 100% liable? *See Bellsouth Telecomms. v. La. Psc*, No. 06-324-C-M2, 2007 U.S. Dist. LEXIS 114952, at *19 n.16 (M.D. La. Mar. 23, 2007) ("Under the judicial estoppel doctrine, a litigant is forbidden from obtaining a victory on one ground and then repudiating that ground in a different case, according to the exigencies of the moment, in order to win a second victory.") And what if Plaintiff did get the victory she seeks and secured a judgment against notaries and TUPSS, Inc. for the full amount of alleged damages, with a jury finding that no other party bore any responsibility for those losses? The inevitable appeal would not alter the preclusive effect of that first judgment and, in all events, Plaintiff would not be able to seek a double recovery. Would the Court stay all those other cases until all appeals from a first trial were resolved, or would all those other parties be entitled to judgment? Under either scenario, the first trial would be the only trial, at least for years to come. TUPSS, Inc. doubts that the Court currently envisions that the only case to proceed to trial any time in the next few years would be the case against the notary publics.

The foregoing also explains why the parties in the other cases (which at the moment would be tried after the proposed trial of the Notary Public Action) do not want their cases consolidated for trial. For parties in subsequent trials, they face no risks in connection with earlier trials and stand to reap substantial benefits from a trial where Plaintiff will almost certainly seek to hold defendants 100% liable even under her negligence theories. And as shown above, it is possible that after a first trial, there will not be any other trials, at least until all appeals from a first trial are resolved.

Plaintiff opposes consolidation for trial but does not grapple with any of the issues created by her proposed plan to conduct four separate trials against 30 defendants asserting negligence claims. Plaintiff says that each of the four cases is "factually distinct" and asserts that she grouped similarly situated defendants in each of the four cases. But Plaintiff does not dispute that, although the particular conduct at issue in the four cases might differ, she seeks to hold all defendants liable for the same $100 million in investor losses based on negligence theories, nor does she dispute that each defendant in each case has the right to have the jury instructed that it must apportion fault among *all* alleged wrongdoers (including defendants in the other Investor Loss Cases), the investors, and other non-parties.

Plaintiff also asserts that, on the conspiracy and aiding and abetting claims she has asserted, she is entitled to a $100 million judgment against each defendant jointly and severally so there will be no need to worry about apportionment. But that is just wishful thinking—not a plan for managing trials. If Plaintiff abandoned her negligence claims, then perhaps a consolidated trial would not be required, but unless she does so, the Court must consider how those negligence claims will be efficiently and fairly tried. And the negligence claims can by efficiently and fairly tried only in one consolidated trial that brings together all the parties who have allegedly caused $100 million in damages due to their alleged negligence and intentional conduct.

The defendants in the Baker Donelson Action (which is stayed) state they oppose a consolidated trial because Baker Donelson "is not alleged to have had any interaction with the many defendants in the other Investor Loss Cases, and consolidation of those disparate parties at trial would produce unnecessary confusion and would make the trial

unworkable." (Baker Donelson Action ECF No. 98 at 2.) The fact that the various defendants did not "interact" with each other is irrelevant; their conduct would still be at issue, and Baker Donelson does not cite any authority to the contrary. Under Mississippi law, the jury must apportion fault among all defendants, non-parties who are negligent, and the injured party due to his or her negligence—alleged "interaction" between the defendants and non-parties is not required or considered. The one Ponzi scheme case Baker Donelson cites where the district court declined to consolidate two cases for trial did not involve actions brought by the same plaintiff asserting negligence claims against defendants in multiple actions and seeking the same damages. *See Touchstone Grp., LLC v. Rink*, No. 11-cv-02971-WYD-KMT, 2012 U.S. Dist. LEXIS 98746, at *7-8 (D. Colo. July 16, 2012) ("Touchstone brings claims under securities laws and for negligent misrepresentation and unjust enrichment on behalf of a putative class of investors in the alleged scheme. In the Receiver Action, Anderson represents the interests of Mantria in recouping the losses incurred in the SEC Action, and brings common law claims against many, but not all, of the same defendants for legal malpractice, breach of fiduciary duty, aiding and abetting breach of a fiduciary duty, negligence, breach of contract, and unjust enrichment."). As it stands now, since the Baker Donelson Action is the only case currently stayed by the Court, the defendants in that case presumably assume their case would be the last of the four cases to be tried. For all the reasons addressed above, by the time of any fourth trial, if it ever occurred at all, Plaintiff and her counsel would have tied themselves in knots. The Baker Donelson Action parties' opposition to a consolidated trial must be understood in that light.

TUPSS, Inc. did not move for consolidation of trial in the various Investor Loss Cases at this time because it is not an issue that *must* be decided at this moment, and TUPSS, Inc. believed the Court would want more information, closer to trial, about exactly how Plaintiff and Defendants believe a trial would be conducted. At this stage, Plaintiff has avoided the question. The pros and cons of a consolidated trial will become clearer as these cases progress through discovery, expert reports and discovery, and summary judgment. But given the claims and theories of Plaintiff, it is likely a consolidate trial will be the only fair way to proceed.

II. SINCE THE BAKER DONELSON ACTION IS STAYED, THE OTHER ACTIONS SHOULD BE STAYED OR ELSE THE BENEFITS OF COORDINATION WILL BE LOST OR DIMINISHED

No party other than Plaintiff Mills opposes a stay of each of the Investor Loss Cases until the stay in the Baker Donelson Action is lifted, after the January 2022 trial of Alexander and Seawright. Plaintiff does not attempt to explain how discovery in all the cases could be coordinated while one of the four cases is stayed. It makes no sense.

After the actions are consolidated for discovery, some of the consequences will presumably be that (1) any deposition noticed in one case will be noticed in all cases, and that deposition can be used in each of the cases; (2) documents produced by any party or witness in one case will be produced to all parties in all the cases; and (3) if a discovery motion is filed, each party in the consolidated cases will be able to state its position, and the ruling will apply in all cases. *See, e.g.*, *Wiener v. United States*, 192 F. Supp. 789, 793 (S.D. Cal. 1960) ("All further Interrogatories, Requests for Admissions, Depositions and all further discovery proceedings on the issue of liability and all objections or motions directed thereto, shall be noticed to each and all of the parties and binding upon each and every of said plaintiffs, and each and every defendant, provided the plaintiffs in

each case and each defendant may within the time provided by the Federal Rules of Civil Procedure object to such Interrogatories or Requests for Admissions"). Assuming this Court will issue a similar order, then given the stay in the Baker Donelson Action, it makes sense to stay each of the cases until that stay is lifted.

All ***depositions*** should be stayed until the parties in the Baker Donelson Action are in a position to participate in depositions. Otherwise, any witness deposed might face the prospect of a further deposition once the stay in the Baker Donelson Action is lifted. Furthermore, Defendants in the Notary Public Action would presumably be precluded from deposing any party in the Baker Donelson Action until the Baker Donelson Action stay is lifted. Plaintiff's suggestion that the conduct of the parties in the Baker Donelson Action is irrelevant to the Notary Public Action and the other Investor Loss Cases is legally incorrect and inconsistent with Mississippi law.

It likewise makes sense to stay further ***written discovery*** matters in all matters until the stay in the Baker Donelson Action is lifted. Otherwise there might well be motion practice and rulings about the discoverability of information that the Baker Donelson Action parties might well have an interest in, but that the Baker Donelson Action parties would be unable to participate in. The prior proceedings regarding protective orders shows the reason for coordination. Currently pending are issues such as the discoverability of the assignments Plaintiff has apparently obtained from investors, and whether investors will be subject to discovery. Further, TUPSS, Inc. assumes that any defendant in the Baker Donelson Action would object to any subpoena for documents issued to them while the Baker Donelson Action stay is in effect based on the stay in effect.

A short stay also makes sense because there are outstanding subpoenas to the government for materials that are crucial to the further litigation of this and the other related cases, and some actions have already been filed regarding the government's responses, and others will be. In the Notary Public Action, the most important documents might well be any timber deed with an original signature and stamp of a notary public. Plaintiff Mills has speculated that the FBI might have those documents, but thus far the FBI has been unwilling (or unable) to produce any such originals. It will take months for those matters to be resolved.

A four-month-or-so stay also makes sense given current COVID-19 conditions. These cases do not involve only local witnesses, parties, or counsel. Now that Plaintiff Mills has produced documents showing the names of Adams' investors, we can see that many of those investors (who were investing hundreds of thousands of dollars at a time) are located throughout the United States. (*See* McDonald Decl. ¶ 4.) (Plaintiff Mills' characterization of Adams' investors as elderly Mississippians who trusted Adams with, and lost, their life savings is inaccurate.) Under the Federal Rules, those depositions must be conducted in person where the witness resides unless the Court orders otherwise. Further, TUPSS, Inc. is headquartered in San Diego, California and any deposition of it or its employees will need to occur there. Several of the Herring Ventures Notaries Public live outside Mississippi, and will have to be deposed where they reside. (*Id.* ¶ 5.) Adams is incarcerated in Texas, at a facility with very strict COVID-19 rules in place that allow for only one day of deposition per week. (*See* Declaration of Mark R. McDonald iso Motions ¶ 8, dated August 10, 2021, Notary Public Action ECF No. 263.) In short, an order staying proceedings until at least early 2022 is particularly not prejudicial given

COVID-19 conditions and the facts that there are more reported COVID-19 cases, and more related deaths, in Mississippi today than at any other time since the pandemic began. (McDonald Decl. ¶ 6.)

TUPSS, Inc. also wants to point out that it is not proposing this relatively short stay so all parties can relax and stop working on this case. There is substantial work that can and must be done in the interim notwithstanding a stay. Plaintiff Mills just recently supplemented her Rule 26 disclosures and produced ***more than 350,000 pages*** of never-before-produced material. (*Id.* ¶ 2.) It will take the parties months to review all that material. (*Id.*) Had all that material been produced at the outset of these cases, it would surely have been many months before any depositions occurred. And those 350,000 pages are merely the documents Plaintiff Mills wants to produce; her Opposition to TUPSS, Inc.'s pending Motion to Compel confirms that any document she believes is irrelevant or that she otherwise does not want to produce is still being withheld (e.g., her communications with investors, including investor assignments). (*See* Notary Public Action ECF No. 260.) Plaintiff's argument to this Court that TUPSS, Inc. and the Defendants in the Notary Public Action do not need to review all of those 350,000 documents carefully because, in Plaintiff's opinion, they are unimportant is nonsense.

Further, a recently produced letter from Plaintiff Mills revealed the existence of another computer that Adams used. Plaintiff Mills apparently asked the FBI for an image of that computer, which was then provided by the FBI to her. (The FBI's cooperation with Plaintiff Mills is starkly different from its level of cooperation with Defendants in the Notary Public Action, who did not receive a single document or item in response to their subpoenas.) Plaintiff Mills asserts she is in the process of making that image

available to Defendants in the Notary Public Action. (*See* McDonald Decl. ¶ 3.) Once that computer image is made available, the parties will need time to review it with the aid of experts. (*Id.*)

In short, there is substantial work that can and must be done that will keep all parties very busy during the proposed short discovery stay. Given that Plaintiff is the primary cause of so much material just now being provided, her objection to a stay should be given little weight.

III. IF THE COURT ELECTS TO ISSUE A NEW SCHEDULING ORDER IN THE NOTARY PUBLIC ACTION NOW, IT SHOULD BE EXTENDED AT LEAST TWELVE MONTHS

If the Court grants TUPSS, Inc.'s Motion to Stay, then TUPSS, Inc. believes a new consolidated scheduling order should be issued after the stays are lifted. At that time, it will be easier to assess how much time all parties will need for the coordinated discovery that will occur. Unless the Court is prepared to issue a consolidated scheduling order that applies in all the cases at this time, including in the Baker Donelson Action, then it follows that a consolidated scheduling order should not be set in any of the actions, including the Notary Public Action, at this time.

If, however, the Court were to issue a scheduling order now, TUPSS, Inc. submits that all the dates in the existing Notary Public Action scheduling order should be continued at least twelve months. It is not feasible for all the work necessary to prepare for what would be a very complicated trial to be completed before early 2023 given how much was just provided and how many discovery issues are unresolved.

IV. PLAINTIFF MILLS MAKES A NUMBER OF CLAIMS AND ACCUSATIONS THAT MUST BE CORRECTED

Instead of addressing directly the very few issues that are actually in dispute that this Court must decide in connection with TUPSS, Inc.'s Motion, Plaintiff Mills filed a 15-page Response venting her frustration that she will be unable to rush toward a February 2022 trial in this case where Defendants would have been deprived of their basic discovery rights. TUPSS, Inc. briefly addresses some of the more outlandish claims Plaintiff Mills makes, which are potentially relevant to the Court's plan going forward.

Plaintiff Mills' claim that she and TUPSS, Inc. "have the same things" is patently untrue, which is why, once again, she does not submit a sworn declaration offering any support for her claim. (Notary Public Action ECF No. 288 at 5.) As discussed in TUPSS, Inc.'s Motion to Compel, Plaintiff Mills refuses even once to represent that she has produced *all* documents in her possession in response to any of TUPSS, Inc.'s RFPs. (*See* Notary Public Action ECF No. 243.) She makes statements that reveal that she is withholding numerous responsive documents on the ground that she believes they are irrelevant (such as investor assignments). (*See id.*) Plaintiff and TUPSS, Inc. do not "have the same things."

Plaintiff's suggestion that Defendants do not need original timber deeds because Defendants have an image of Adams' desktop computer is likewise nonsense. A purported lack of evidence on Adam's desktop computer that he manipulated timber deeds after a notary public signed and stamped the document does not prove Plaintiff's theory that notary publics acknowledged the signatures of both Adams and the fictitious landowner-grantor who was obviously not present. Furthermore, Plaintiff Mills has known about the existence of a second Adams computer (a *laptop)* for more than two years but Defendants only learned of it in the last couple of weeks when Plaintiff Mills

happened to produce a letter she wrote in 2019 that mentioned it. (McDonald Decl. ¶ 3.) So the notion that Defendants do not need and thus are not entitled to any more discovery related to the timber deeds because they have an image of Adams' desktop computer is nonsense.

Plaintiff Mills for the umpteenth time quotes the phrase from the Court's Order on Defendants' motions to dismiss that discovery in this case should not be "overly complex." (Notary Public Action ECF No. 49 at 1.) That stray comment cannot be given any consideration. In connection with those Motions to Dismiss, there was nothing before the Court about how Plaintiffs Mills was going to seek to hold a few individual notary publics, and their employers, and TUPSS, Inc., a franchisor, liable for $100 million in alleged investor losses, including losses incurred by investors who had nothing to do with the Herring Ventures The UPS Store, nor that Plaintiff Mills was suing 30 other defendants for the same alleged damages on negligence theories. The Court issued its short order without conducting a hearing. The Court could not possibly have had a solid basis at that time for making any prediction about complexity of discovery, much less make any ruling that provided guidance about how much discovery would be needed. Plaintiff Mills may have hoped that the only discovery that would occur in this case was the discovery she wanted to take to support her claims, but that was never a possibility.

Plaintiff Mills next complains that she has been "grossly maligned" regarding the fulfillment of her discovery obligations. (Notary Public Action ECF No. 288 at 7.) But just a few weeks ago, Plaintiff Mills produced more than 350,000 pages of material not previously produced and served supplemental disclosures amending the initial disclosures she made in November 2019. (*See* McDonald Decl. ¶ 2.) All of TUPSS, Inc.'s

complaints about Plaintiff's disclosures and discovery have been proven completely warranted.

Yet again, Plaintiff raises the issue of "victims' privacy," accuses TUPSS, Inc. of telling untruths to the Court about the history of that issue, and asserts that TUPSS, Inc.'s "sole mission" in this action is to "harass and blame victims." (Notary Public Action ECF No. 288 at 11.) Because it is Plaintiff who misstates the true history of prior proceedings on this issue, TUPSS, Inc. will review. In December 2019, Plaintiff filed a motion seeking a protective order at the outset of this case requiring the name of any investor to be redacted from any document ever filed in Court. (*See* Notary Public Action ECF No. 67.) In July 2020, this Court denied Plaintiff's motion for entry of such a protective order, and entered the protective order proposed by TUPSS, Inc. which would require a party seeking sealing of a document with "confidential" information to make the required showing per Local Rule 79 of compelling reasons for sealing. (*See* Notary Public Action ECF Nos. 89-90.) In the Court's ruling the Court said it would be "premature" to decide in connection with a protective order that there was a compelling need to seal each and every document that might ever be filed in this action. (*Id.*) Contrary to the inaccurate claim by Plaintiff, the Court did ***not*** say it would be premature to consider the protective order Plaintiff was seeking, and this Court expressly denied her motion. Despite that ruling, Plaintiff has filed another motion for a protective order in *SEC v. Adams*, No. 3:18-cv-00252 (S.D. Miss. June 30, 2021) action asking for the very same relief this Court denied her in July 2020—and without even mentioning this Court's July 2020 ruling, much less arguing any new facts or new law warranted reconsideration of that July 2020 Order.

TUPSS, Inc. does not have a mission to harass investors. By asserting claims that belong to investors, and obtaining assignments from investors, Plaintiff ensured that those investors would be critical witnesses whose evidence all parties in these related cases would need. Seeking proper discovery from key witnesses is hardly improper harassment.

V. CONCLUSION

The Court should order consolidation of the four Investor Loss Cases, and stay them all until after the Alexander & Seawright criminal trial is resolved, at which time the Court should convene another conference in these consolidated cases to discuss next steps.

Dated: September 14, 2021

By: *___/s/ Mark R. McDonald___*

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CERTIFICATE OF SERVICE

I, Mark R. McDonald, do hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all counsel of record.

THIS, the 14th day of September, 2021.

s/ Mark McDonald
MARK R. MCDONALD