

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

ALYSSON MILLS, IN HER CAPACITY  
AS RECEIVER FOR ARTHUR LAMAR  
ADAMS AND MADISON TIMBER  
PROPERTIES, LLC,

Plaintiff,

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.

Case No. 3:18-cv-00866-CWR-BWR

**Hon. Carlton W. Reeves**

**ORAL ARGUMENT REQUESTED**

**MEMORANDUM OF LAW IN SUPPORT OF BAKER DONELSON'S  
MOTION TO CONDUCT INVESTOR DISCOVERY**

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## INTRODUCTION

In response to the Court’s Orders,<sup>1</sup> Baker, Donelson, Bearman, Caldwell & Berkowitz P.C. (“Baker Donelson”) resubmits its request to take ordinary Rule 26 discovery from investors, who are material witnesses to the facts at issue in this case. As in its prior requests,<sup>2</sup> Baker Donelson does not propose to depose all investors in Madison Timber. Baker Donelson first seeks leave to serve subpoenas for documents and a questionnaire on investors, and it will use the information provided in response to identify which investors it wishes to depose. Copies of the proposed subpoena and investor questionnaire are attached as Exhibits A and B.<sup>3</sup> Baker Donelson is also discussing with counsel for the Receiver whether the parties can enter a stipulation that would narrow the universe of investors who receive these subpoenas and questionnaires. But in the absence of a stipulation, Baker Donelson seeks leave to serve the subpoenas and questionnaires on all investors in Madison Timber.<sup>4</sup>

Baker Donelson has been seeking to pursue discovery from investors since at least February 2022, when it, along with other defendants in the consolidated discovery proceeding, filed a notice of intent to serve subpoenas pursuant to the Case Management Order.<sup>5</sup> Investor discovery is critical to Baker Donelson’s defense against the Receiver’s claims that Baker Donelson defrauded and injured those same investors.

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<sup>1</sup> ECF No. 592 (Case No. 3:22-cv-36, *In re Consolidated Discovery*); ECF No. 670 at 2 & n.1 (Case No. 3:22-cv-36); ECF No. 122 at 1 (Case No. 3:18-cv-866, *Mills v. Butler Snow LLP et al.*).

<sup>2</sup> ECF Nos. 79, 247, 248 (Case No. 3:22-cv-36).

<sup>3</sup> All references to exhibits in this memorandum are references to the motion exhibits.

<sup>4</sup> Baker Donelson also intends to subpoena two investor spouses, who have represented themselves as making the investments and being knowledgeable about them. *See* ECF No. 301 (Case No. 3:22-cv-36).

<sup>5</sup> The Case Management Order limited an initial phase to written discovery and imposed specific requirements for subpoenas to nonparties. Defendants had to file a notice of intent to serve subpoenas, which the Receiver opposed. Objections needed to be resolved before subpoenas could be served. *See* ECF No. 7 at 3–4.

The Receiver, while professing not to represent the investors, has objected to all such discovery. Baker Donelson has therefore been required to submit two separate rounds of briefing, seeking permission to do what is clearly permissible under the Federal Rules. The Receiver's objections have led to a 21-month delay of this necessary discovery. In the meantime, the Receiver has been permitted to communicate with the investors, obtain documents from them, and for some investors obtain an assignment of their claims—all while Baker Donelson was not permitted to issue any discovery to these investors. The Receiver has received written discovery from Baker Donelson, and her counsel will no doubt press to begin depositions, yet Baker Donelson has not been permitted to take the written discovery it needs to prepare for its depositions and evaluate what other depositions are necessary. The Court should not countenance such one-sided discovery.

It should be beyond dispute that discovery from investors is relevant and proportionate to defend against the Receiver's claims. The Receiver alleges that Baker Donelson is liable for the consequences of Lamar Adams's scheme—both directly, for allegedly conspiring with Adams or otherwise negligently allowing his scheme to grow, and vicariously, for the alleged actions of two of its former employees, Brent Alexander and Jon Seawright. *See* ECF No. 57 (Amend. Compl.) at 35–50 (Case No. 3:18-cv-866). Of course, Baker Donelson did not represent Adams, Madison Timber, Alexander, Seawright, or any related entity, and it had nothing to do with Adams, Madison Timber, or their business dealings. As for Alexander and Seawright, they ran their own business—an entity named Alexander Seawright Timber Fund I, LLC (“ASTFI”), through which they allegedly located individual investors to fund ASTFI's loans to Madison Timber—for their own personal benefit.

As a result, discovery from the investors is vitally important to Baker Donelson, since it lacks any direct knowledge of Adams's scheme. The Federal Rules of Civil Procedure entitle

Baker Donelson to discover the nature and extent of this fraud Adams perpetrated—for which the Receiver seeks to hold Baker Donelson responsible—including by collecting documents and testimony from those individuals whom Adams deceived.

None of that should be controversial. The Receiver herself has already unilaterally issued a written survey to investors and spoken with many of them directly.<sup>6</sup> Her counsel agreed that a further questionnaire, which Magistrate Judge Ball suggested, “could be very productive” in developing the case and narrowing the scope of potential depositions. Ex. C, Hr’g Tr. (Status Conference) 42:7–8 (Dec. 7, 2021).<sup>7</sup> The Receiver also has acknowledged that investors could “possess communications with Lamar Adams or Madison Timber, or communications with any of the consolidated Defendants,” as well as “documents that accompanied an investor’s Madison Timber investment,” and “does not object to asking investors to produce that information.” *See* ECF No. 184 at 4 (Case No. 3:22-cv-36). And the original Consolidated Discovery Plan that the Receiver proposed to Judge Ball expressly contemplated that investor depositions would take place. *See* Ex. D, Letter to Judge Ball (Dec. 3, 2021).

In sum, discovery from investors is critical for Baker Donelson to present fully its defenses, including that it was not involved in, much less responsible for, defrauding investors; for understanding Adams’s fraud; and for contesting the Receiver’s claims for damages.

### **PRIOR MOTIONS PRACTICE**

In the consolidated discovery action, Baker Donelson and other defendants filed a notice of intent to serve subpoenas on investors nearly 21 months ago, on February 28, 2022. *See* ECF No. 79 (Case No. 3:22-cv-36, *In re Consolidated Discovery*). The Receiver objected to the

<sup>6</sup> *See* ECF No. 212 (Receiver’s Report) at 14 (Case No. 3:18-cv-252, *SEC v. Adams*).

<sup>7</sup> The Receiver has since backtracked on that position and protests that the questionnaire, “although not altogether objectionable in substance, is procedurally improper and premature.” ECF No. 83 at 22 (Case No. 3:22-cv-36). It is unclear how Baker Donelson’s questionnaire could be “premature” when the Receiver has already issued her own to the investors, and the case has been pending nearly five years.

proposed subpoenas in their entirety, ECF No. 83, and the defendants therefore were precluded from serving them under the terms of the Case Management Order, ECF No. 7 at 3–4.

While the defendants’ request for investor discovery was pending, issues concerning investor discovery were presented in the Receiver’s action against BankPlus, in connection with cross-motions concerning BankPlus’s affirmative defenses.<sup>8</sup> On January 17, 2023, Judge Reeves issued an order “ask[ing] the parties to share information about how they intend to try this case.” ECF No. 221 at 1 (Case No. 3:19-cv-196, *Mills v. BankPlus et al.*) (citing ECF Nos. 183, 194, 208). The Court stated that “[a] hearing on these issues will be scheduled for the same day as the Magistrate Judge’s next in-person conference,” at which “the Receiver should be prepared to discuss how she intends to proceed with investor-witnesses.” *Id.* at 4.

Following Judge Reeves’s order, Judge Ball directed the parties to submit further briefing on the scope of discovery related to investors. ECF No. 592 (Case No. 3:22-cv-36). The Court instructed the parties to address: (a) the subject matter and general topics on which the discovery is requested; (b) the reasons the discovery requested is necessary, including the specific claims and/or defenses to which the discovery is relevant; (c) the form(s) of discovery requested and from whom the discovery is requested; and (d) the estimated time frame to complete the discovery requested.

In response to the Court’s order, Baker Donelson and other defendants submitted a joint Motion to Conduct Investor Discovery. *See* ECF No. 635 (Case No. 3:22-cv-36). The Receiver again opposed the motion in its entirety, ECF No. 643, and Defendants replied, ECF No. 650. Judge Ball also requested the parties provide jury instructions and verdict forms on issues relevant to investor evidence. *See* ECF No. 592 at 2 (Case No. 3:22-cv-36). The defendants

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<sup>8</sup> *See* ECF Nos. 183, 194, 208 (Case No. 3:19-cv-196, *Mills v. BankPlus et al.*).

submitted proposed instructions and forms; the Receiver did not. To the extent those are helpful, they are available at ECF Nos. 636-1 and 636-2 (Case No. 322-cv-36).

The defendants' motion remained pending until, on September 27, 2023, the Court issued an order closing the consolidated discovery case after some of defendants reached settlements in principle with the Receiver. ECF No. 670 (Case No. 3:22-cv-36); *see id.* at 2 & n.1 (recognizing that Defendants' Motion to Conduct Investor Discovery remained pending). The Court's order granted leave to re-file any pending motions in the defendants' respective cases. *Id.* at 2.

Baker Donelson therefore resubmits its request to conduct investor discovery.

### **ARGUMENT**

The Court should permit Baker Donelson to take discovery from individuals and entities who invested in Madison Timber because that discovery seeks nonprivileged information, relevant to the parties' claims or defenses and proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1). As Magistrate Judge Ball previously concluded, "communications . . . between Adams / Madison Timber and investors" are "relevant" and thus "fair game" for discovery. ECF No. 338 at 3 (Case No. 3:19-cv-364, *Mills v. UPS Store et al.*). So too is the additional discovery Baker Donelson proposes to take.

#### **I. The Requested Investor Discovery Is Relevant, Proportional, and Necessary for Baker Donelson to Develop Its Defenses.**

Baker Donelson seeks discovery from investors tailored to the Receiver's claims and Baker Donelson's defenses. This discovery would address seven general topics:

- (1) investors' interactions (if any) with Baker Donelson, which bear on the Receiver's claim that Baker Donelson knowingly participated in Adams's scheme and defrauded investors;
- (2) investors' interactions with Madison Timber, Adams, and his alleged recruiters, which bear on the Receiver's underlying tort claims;

(3) investors' relationship and interactions with Alexander and Seawright and investors' bases for believing that these alleged agents had apparent authority, which bear on the Receiver's theories of vicarious or indirect liability;

(4) investors' understanding of their investments, including their knowledge of the alleged "red flags" that the Receiver contends revealed the fraudulent nature of Madison Timber;

(5) investors' principal invested and returns received—especially from ASTFI—which are the basis for the Receiver's damages calculations;

(6) investors' comparative fault, if any, which must be considered for apportionment of damages under Mississippi law; and

(7) the assignment of claims made by investors to the Receiver, which bears on both the nature and quantum of the claims the Receiver is asserting.

Per the Court's instruction in the consolidated discovery case, ECF No. 592 (Case No. 3:22-cv-36), the relevance and necessity of each of these subjects is explained further below.

**A. Investor Discovery Is Relevant to the Receiver's Claims Against Baker Donelson.**

The Receiver does not merely allege that Baker Donelson missed Adams's fraud. She contends that Baker Donelson participated in a conspiracy with Adams and that it aided and abetted his fraud. Those claims require the Receiver to demonstrate that (i) Baker Donelson *knew* that Adams was operating a Ponzi scheme and (ii) an *overt, wrongful act* occurred for the purpose of furthering that unlawful scheme. *See Bradley v. Kelley Bros. Contractors*, 117 So. 3d 331, 339 (Miss. Ct. App. 2013) ("For a civil conspiracy to arise, the alleged confederates must be aware of the fraud or wrongful conduct at the beginning of the agreement."); *Cooper Tire & Rubber Co. v. Farese*, 423 F.3d 446, 459 (5th Cir. 2005) (stating that Mississippi civil conspiracy requires "one or more unlawful overt acts").

The Receiver alleges that Baker Donelson communicated directly with investors and knowingly procured their participation in a Ponzi scheme. *See, e.g.*, ECF No. 57 (Amend. Compl.) at 35 (alleging Baker Donelson "assist[ed] Adams by recruiting new investors to



Madison Timber”). She alleges that Adams “operated a Ponzi scheme that defrauded hundreds of investors” because those “[i]nvestors *believed* that Madison Timber used investors’ money to purchase timber from Mississippi landowners; that Madison Timber sold the timber to Mississippi lumber mills at a higher price; and that Madison Timber repaid investors their principal plus interest with the proceeds of those sales.” *See, e.g., id.* at 2.<sup>9</sup>

Of course, Baker Donelson challenges these allegations. Discovery is the vehicle through which Baker Donelson is now entitled to determine what evidence exists in support of or contradicting the Receiver’s case. Discovery about what the investors were told, what they believed, whom they spoke to, what investigation they did (if any), why they decided to invest in Madison Timber, and what “influence” they perceived from Baker Donelson is highly relevant to understanding Adams’s fraud, for which the Receiver seeks to recover from Baker Donelson.

**B. Investor Discovery Is Relevant to the Receiver’s Claims Against Alexander and Seawright, for Which the Receiver Seeks to Hold Baker Donelson Liable.**

The Receiver claims Baker Donelson is liable for the conduct of Alexander and Seawright on a theory of *respondeat superior* liability. Baker Donelson thus requires discovery from investors about their relationships, if any, with Alexander and Seawright. Among other reasons, that is because Baker Donelson cannot be held vicariously liable for Alexander’s and Seawright’s conduct unless Alexander and Seawright are liable themselves—that is, unless they engaged in the tortious conduct the Receiver alleges. *See, e.g., J & J Timber Co. v. Broome*, 932 So. 2d 1, 6 (Miss. 2006) (“An action against an employer based on the doctrine of *respondeat superior* is a derivative claim arising solely out of the negligent conduct of its employee within the scope of his or her employment. . . . There can be no assessment of damages against the employer when no action can be brought against the only negligent party—the employee.”).

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<sup>9</sup> Emphases added unless otherwise indicated.

Alexander's and Seawright's interactions with investors are thus relevant to the elements of the underlying unlawful conduct for which the Receiver seeks to hold Baker Donelson vicariously liable. For instance, the Receiver alleges that Alexander and Seawright "made false representations of fact to encourage investments in Madison Timber." ECF No. 57 (Amend. Compl.) at 38. The Receiver's claim thus turns on the relationship between Alexander, Seawright, and each investor with whom they spoke. Baker Donelson is entitled to test the case the Receiver will present, which necessitates discovery from investors.

The Receiver also alleges that Alexander and Seawright (and Baker Donelson) are liable because they missed "red flags" that should have alerted them that Madison Timber was a Ponzi scheme. *See id.* at 28. This premise remains faulty as a matter of law: As many courts have recognized, "banks, lawyers, brokerage houses, [or] accountants" do not face liability premised on "red flags, smoke, and other irregularities." *El Camino Res., LTD. v. Huntington Nat'l Bank*, 722 F. Supp. 2d 875, 907–08 (W.D. Mich. 2010) (collecting authority), *aff'd*, 712 F.3d 917 (6th Cir. 2013). Baker Donelson was not involved and missed no red flags. And Baker Donelson expects the evidence to show that Alexander and Seawright neither knew nor had any reasonable basis to believe that Madison Timber was a Ponzi scheme. But Baker Donelson has a right to discovery relevant to the claims the Receiver has asserted. And the knowledge of others who interacted with Madison Timber—including the investors—is highly relevant to assessing whether Baker Donelson "should have known that Madison Timber was a Ponzi scheme." *See, e.g.*, ECF No. 57 (Amend. Compl.) at 36. Many of these alleged red flags were visible equally to investors as to Alexander and Seawright (though not to Baker Donelson). If Alexander and Seawright unreasonably missed these "red flags" as the Receiver claims, the investors did too.

### **C. Investor Discovery Is Relevant to the Receiver's Derivative Claims.**

The Receiver also asserts claims for aiding and abetting, conspiracy, and other derivative

torts, which seek to hold Baker Donelson liable for Adams’s fraud. *See, e.g.*, ECF No. 57 (Amend. Compl.) at 35 (“Defendants conspired with Adams[.]”); *id.* at 38 (“Defendants aided and abetted Adams[.]”).

The hornbook elements of the Receiver’s civil claims make clear that investor discovery is relevant and necessary. Her derivative claims require the Receiver to prove the existence of an underlying, predicate tort or statutory violation. *See Bowden v. Young*, 120 So. 3d 971, 981 (Miss. 2013) (“[C]laims for conspiracy and aiding and abetting should be dismissed . . . because the underlying substantive claims of battery . . . upon which the claims are based are themselves incapable of achieving relief.”); *Rex Distrib. Co. v. Anheuser-Busch, LLC*, 271 So. 3d 445, 455 (Miss. 2019) (describing a civil conspiracy claim based on “an underlying wrong—[the] alleged violation of [a] statute”).

The Receiver alleges an underlying tort of “fraud.” She claims generally that Adams committed “fraud” and that Baker Donelson “conspired with Adams to commit the tortious acts alleged.” *See* ECF No. 57 (Amend. Compl.) at 35. She also claims more specifically that Adams “committed securities fraud by operating a Ponzi scheme” in violation of “Section 10(b) of the Securities Exchange Act of 1934 . . . and Rule 10b-5.” ECF No. 3 (Complaint) at 1–2 (Case No. 3:18-cv-252, *SEC v. Adams*); *see also* ECF No. 57 (Amend. Compl.) at 3, 8–9 (Case No. 3:18-cv-866) (adopting the SEC’s allegations). Both torts—general fraud and securities fraud—require the Receiver to establish against Baker Donelson, among other things, that (1) false, material representations were made to investors; (2) investors relied on those representations in deciding whether to invest in Madison Timber; and (3) this reliance caused the investors damages. *See, e.g., Gulf Coast Hospice LLC v. LHC Grp. Inc.*, 273 So. 3d 721, 742

(Miss. 2019) (fraud); *Amgen Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 460–61 (2013) (securities fraud).

*First*, the Receiver must identify the ***specific false representations*** that were made to the investors and were ***material*** to the investors’ decisions. *See Bissette v. Univ. of Miss. Med. Ctr.*, 282 So. 3d 507, 517 (Miss. Ct. App. 2019) (claims for misrepresentation require evidence of a “specific person and a specific representation”). Baker Donelson is therefore entitled to discover to whom investors spoke (e.g., Adams, Kelly, Bill McHenry, or others), what those investors were told, and what they understood about Madison Timber and their investments.

*Second*, the Receiver must establish ***reliance***. Under Mississippi law, that means the Receiver must prove the investors’ “ignorance of [the] falsity” of Adams’s representation(s) about the timber investments, along with their “reliance on its truth” and their “right to rely thereon.” *Lancaster v. Miller*, 319 So. 3d 1174, 1180–81 (Miss. Ct. App. 2021). In other words, reliance must be reasonable or justifiable. *See Braidfoot v. William Carey Coll.*, 793 So. 2d 642, 652 (Miss. Ct. App. 2000). Securities fraud also requires proof of reliance. *See, e.g., Goldman Sachs Grp., Inc. v. Ark. Tchr. Ret. Sys.*, 141 S. Ct. 1951, 1958 (2021) (federal securities fraud); *Geisenberger v. John Hancock Distributors, Inc.*, 774 F. Supp. 1045, 1051 (S.D. Miss. 1991) (Mississippi securities law). An investor was thus defrauded only if he or she was ignorant of the scheme and reasonably relied on Adams’s false representations, which the Receiver claims were perpetuated and given credence by Baker Donelson and its “influence.”

Even the facts alleged on the face of the Receiver’s complaint suggest that reasonable reliance might be absent for some, if not many, of the investors. As the Court observed in considering a motion to dismiss from one of the defendants in the consolidated discovery action, “this case involves very sophisticated people who engaged in this – who might have – who had

some ability to know that guaranteed premiums is suspect[.]” Ex. E, Hr’g Tr. at 13:3–6 (June 11, 2021). For example, the Court posited that an investor “might know . . . if you’re investing in land, that there are deeds out there which show that others might know that something is wrong when you get these predated checks and you’re told to deposit the check and magically money will appear in your account every month on a specific day.” *Id.* at 13:6–11.

Baker Donelson needs discovery to establish such facts for trial. For instance, Baker Donelson seeks information relating to investors’ communications with Adams, to understand what representations Adams made. *See, e.g.*, Ex. A. at 1–2. Baker Donelson also seeks information about investors’ relative sophistication and what other advice they sought about the investments, all of which goes to their reliance and the reasonableness of any such reliance.<sup>10</sup> *See* Ex. F, (Text from Billings to Adams stating: “We have cultivated (and continue to cultivate) an ultra-high net worth, highly successful and highly sophisticated investor group - and that’s the only kind we want to add to it; we do not need or want any dead weight!!”); ECF No. 57 (Amend. Compl.) at 16 (alleging the involvement of “bigger, institutional clients,” including “several \$1.5 billion family office(s) in Texas” who participated in “a 75+ day due diligence period”).

*Third*, the Receiver must show that this reasonable reliance caused the investors’ damages. If investors turned to other sources—for instance, financial advisors—when deciding to invest in Madison Timber, this causation becomes attenuated. For this reason, Baker

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<sup>10</sup> While the Court has stated in the Receiver’s separate case against The UPS Store that “[d]iscovery of post-appointment communications between the Receiver and investor-victims . . . will shed no light on the claims or defenses between the actual parties,” ECF No. 338 at 3 (Case No. 3:19-cv-364), Baker Donelson respectfully maintains that this argument provides a straightforward example of how post-appointment communications are relevant. If a sophisticated investor told the Receiver in response to her questionnaire that the investor had suspicions about the legitimacy of Adams’s business, this evidence would inform the reasonableness of both that investor’s and Baker Donelson’s pre-appointment actions regarding Madison Timber.

Donelson seeks discovery about the financial advice and assistance investors received from third parties. Additionally, as discussed further in Sections I.E and I.F, investors' records provide an important source of information for assessing the quantum of damages.

**D. Investor Discovery Is Relevant to the Receiver's Theories of Agency.**

The Receiver claims Baker Donelson is vicariously liable for the conduct of Alexander and Seawright on a theory of agency. *See, e.g.*, ECF No. 57 (Amend. Compl.) at 50 (claiming Baker Donelson is vicariously liable because its "apparent backing" "enabled . . . Alexander and Seawright . . . to recruit new investors to Madison Timber"). Baker Donelson disputes that Alexander and Seawright were acting for the law firm and that the firm could be vicariously liable for their conduct—after all, they formed their own personal LLC for their investment activity. By statute, the liability of a professional corporation like Baker Donelson is limited to the acts of its employees performed either "within the scope [1] of their employment or [2] of their apparent authority to act for the corporation[.]" Miss. Code § 79-10-67(2).

The Receiver bases her agency theory in part on "apparent authority." Apparent authority must be assessed "from the point of view of the third person" who allegedly relied upon the agent's authority. *Restatement (Second) of Agency* § 261, cmt. a. The Receiver alleges "[i]nvestors reasonably believed that their investment[s] in Madison Timber" were "backed and promoted by, and had been vetted by," Baker Donelson. ECF No. 57 (Amend. Compl.) at 23. That theory of liability is wrong as a matter of law because the Receiver stands in the shoes of the Receivership Estate, not the investors. But Baker Donelson has the right to discovery into the Receiver's case as pleaded. Thus, discovery is proper to determine—from the investors' perspective—what evidence the Receiver might assert to make her "showing of (1) acts or conduct of the principal indicating the agent's authority, (2) reasonable reliance on those acts,

and (3) detrimental change in position as a result of that reliance.” *Christian Methodist Episcopal Church v. S & S Construction Co., Inc.*, 615 So. 2d 568, 573 (Miss. 1993).

Investor discovery is necessary to determine which acts by Baker Donelson (if any) indicated Alexander’s and Seawright’s authority to act on Baker Donelson’s behalf regarding Alexander’s and Seawright’s personal business and, further, which of those alleged acts any investors relied upon. For instance, Baker Donelson would ask investors: Did the investors believe that Alexander’s and Seawright’s personal business, ASTFI, was “backed,” “promoted,” and “vetted” by Baker Donelson? If so, what acts or conduct of the firm led to that belief?

#### **E. Investor Discovery Is Relevant to the Amount of Damages.**

Investor discovery also would provide information relevant to the Receiver’s alleged damages.<sup>11</sup> The Receiver calculates her damages based on Madison Timber’s outstanding debts to all investors. If the Receivership has defenses against an investor’s claim—whether due to lack of justifiable reliance or otherwise—then that investor is owed nothing by the Receivership Estate and any previous returns of interest or profit would be subject to clawback. *See Janvey v. GMAG, L.L.C.*, 977 F.3d 422 (5th Cir. 2020); *Janvey v. GMAG, L.L.C.*, 925 F.3d 229 (5th Cir. 2019); *Janvey v. Brown*, 767 F.3d 430, 440–43 (5th Cir. 2014). Thus, even under the Receiver’s flawed theory, her damages are at most the principal outstanding to investors who justifiably relied on Adams’s false representations, less amounts subject to clawback from investors who knew or should have known that the investment was fraudulent.

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<sup>11</sup> The Receiver’s theory of damages is legally unsound. *In re SI Restructuring, Inc.*, 532 F.3d 355, 363 (5th Cir. 2008) (“deepening insolvency is not a valid theory of damages”); *Latitude Sols., Inc. v. DeJoria*, 922 F.3d 690, 696–97 (5th Cir. 2019) (increased debts are not damages). Baker Donelson is nonetheless entitled to respond to the Receiver’s damages theory as pleaded.

**F. Investor Discovery Is Relevant to the Apportionment of Damages.**

Investor discovery also is necessary to allocate alleged damages. *First*, Baker Donelson is entitled to determine which investors invested with ASTFI, whether they also invested through other avenues or had interactions with other related parties, how much they invested, how much they received in returns, and whether they had any capital invested when the scheme collapsed. At a minimum, any liability imposed on Baker Donelson must be limited to injuries to investors who invested through ASTFI. Any other losses were not “proximately caused” by Alexander’s and Seawright’s conduct. *See Miss. Valley Silica Co. v. Reeves*, 141 So. 3d 377, 382 (Miss. 2014); *see also* Miss. Code § 85-5-7(5) (each defendant is only liable for the damages it directly and proximately caused, and only in proportion to its percentage of fault as allocated among other wrongdoers). The vast majority of investors never communicated with Alexander and Seawright, let alone with Baker Donelson. While the Receiver has provided her own accounting of damages, this accounting does not fully resolve these questions (e.g., because it does not identify investments made through entities or institutions), and Baker Donelson should be permitted the discovery necessary to test the Receiver’s accounting.

*Second*, under Mississippi law, fault for any tort committed without a “specific wrongful intent” is apportioned comparatively, and not only among named defendants, but also nonparties. *See* Miss. Code §§ 85-5-7(1), (5); *Estate of Hunter v. Gen. Motors Corp.*, 729 So. 2d 1264, 1272–76 (Miss. 1999). Baker Donelson does not intend to suggest that all investors—or, perhaps, any investors—bear fault for Adams’s fraud. But to the extent the Receiver seeks to establish liability based on a theory of “red flags” or other negligence, alleged fault would be apportioned among all individuals who were negligent in missing those alleged flags.<sup>12</sup>

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<sup>12</sup> The Receiver has previously excluded individuals from recovery distributions, ostensibly on the ground that they are not properly victims of the scheme. *See* ECF No. 335 (Order of Approval) at 3 (Case No.



**G. Investor Discovery Is Relevant to the Claims the Receiver Purports to Assert Based on Assignments from Investors.**

In addition to the claims she asserts on behalf of Adams and Madison Timber, the Receiver also purports “to pursue claims against [Baker Donelson] as the holder of assignments executed by investors.” *See, e.g.*, ECF No. 57 (Amend. Compl.) at 5. Baker Donelson thus seeks discovery about such assignments and the circumstances in which they were procured. Indeed, in similar receivership circumstances, it has been found that defendants are “entitled to discovery from the Assignors, just as if the Assignors had brought this action themselves on their own claims.” *Newman v. Mayer Brown, LLP*, 252 So. 3d 755, 759 (Fla. Dist. Ct. App. 2018).

Baker Donelson also seeks discovery relevant to the assigned claims. For example, the Receiver asserts claims of vicarious liability based on the alleged apparent authority of the employees of Baker Donelson. As discussed in Section I.D, apparent authority, however, must be assessed “from the point of view of the third person” who is suing the principal. *Restatement (Second) of Agency* § 261, cmt. A. To the extent the claim of vicarious liability is asserted on the basis of the investors’ assignments, therefore, Baker Donelson needs discovery about what the assignor-investors knew and whether they reasonably relied upon Baker Donelson.

**II. Both Written Discovery and Depositions from Investors Are Necessary.**

Baker Donelson does not intend to depose every investor. The identity and number of such depositions will depend on what Baker Donelson learns about the investors through their responses to written discovery. Regarding that written discovery, Baker Donelson is actively discussing with the Receiver’s counsel whether it will be possible to enter into a stipulation that would narrow the universe of investors who will receive subpoenas. But because the Receiver alleges (however unreasonably) that Baker Donelson is responsible for all losses traceable to all

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3:18-cv-252, *SEC v. Adams*). Under the Receiver’s own logic, therefore, Baker Donelson is entitled to discover whether other investors are similarly situated.

Madison Timber investors, absent an agreeable stipulation about what the discovery would show, Baker Donelson sees no alternative to seeking written discovery from all investors.

Baker Donelson thus renews its request for leave to serve a subpoena duces tecum on each of the investors. Baker Donelson filed its notice of intent to serve these subpoenas in February 2022, *see* ECF No. 79 (Case No. 3:22-cv-36, *In re Consolidated Discovery*), and was required to await the Court’s ruling on the Receiver’s “Objection to Subpoenas,” ECF No. 83, before serving them. That subpoena included both a request for documents and—at Judge Ball’s suggestion, *see* Ex. C, Hr’g Tr. 33:24—a questionnaire to help identify which investors likely have relevant information.<sup>13</sup>

Baker Donelson’s requests for written discovery from investors proportionally target information relevant to the claims and defenses discussed above. The proposed subpoena seeks, for example, documents that relate to “any meeting, discussion, or other communication with Adams,” Ex. A at 1, to understand what each investor was told—that is, what representations Adams made. It also seeks documents that relate to the investors’ “decision to invest with, or lend money to, or to stop investing with or lending money to Adams, Madison Timber, ASTFI, or any intermediary,” including “any communications with family members, financial advisors, bankers, accountants, or any other professionals” about that decision or regarding their investment in Madison Timber. *Id.* It seeks “invoices [investors] received from any attorney from whom you sought advice related to your investment.” *Id.* at 4. And, in the proposed questionnaire, it seeks general background on the investors (e.g., occupation, education, income, and professional licenses), their investments in Madison Timber (e.g., whether they contributed

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<sup>13</sup> Baker Donelson does not present this questionnaire as a means of conducting a deposition by written questions, *see* Fed. R. Civ. P. 31, but rather as a mechanism to streamline the discovery process in advance of oral depositions, *see* Fed. R. Civ. P. 30.

in their own name or someone else's), and their communications about Madison Timber (e.g., whether they recommended Madison Timber to anyone). *See* Ex. B at 2–5.<sup>14</sup>

Baker Donelson also intends to depose some of the investors. *See* Fed. R. Civ. P. 30. Specifically, Baker Donelson seeks to depose some or all of the 30-plus individuals who invested in ASTFI. And of course, Baker Donelson would need to depose any investors the Receiver identifies as likely trial witnesses (the Receiver's Rule 26(a) disclosures do not identify any specific investors as trial witnesses). Baker Donelson may also wish to depose additional investors outside of these small categories. Its decision whom to depose will be informed by the investors' written discovery responses. Baker Donelson does not intend to depose all investors, but it cannot yet form a comprehensive view about the appropriate approach to depositions without first reviewing written discovery, including the documents and questionnaires from investors.

### **III. Investor Discovery Will Be Expeditious.**

Once the Court permits Baker Donelson to serve its investor subpoenas, Baker Donelson estimates this written discovery will take three months to complete—one month for the investors to respond, and two months to resolve objections (if any), assuming no unexpected delays caused by investors or the Receiver. At this time, Baker Donelson estimates that investor discovery could be accomplished in approximately six to nine months after the Court approves issuance of the subpoenas, assuming any objections are expeditiously served and ruled upon and there is cooperation by all parties.

## **CONCLUSION**

Baker Donelson respectfully requests permission to proceed with investor discovery.

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<sup>14</sup> The Receiver previously has conceded that these requests “seek information regarding investors’ relative sophistication” and information that “is relevant to investor reliance.” ECF No. 83 at 21, 22 (Case No. 3:22-cv-36).

Dated this 21st day of November, 2023

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ PC**

/s/ Craig D. Singer

Craig D. Singer (*pro hac vice*)  
Benjamin W. Graham (*pro hac vice*)  
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Jackson, MS 39205  
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Fax: (601) 965-1901  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 21, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

/s/ Craig D. Singer  
Craig D. Singer (*pro hac vice*)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

ALYSSON MILLS, IN HER CAPACITY  
AS RECEIVER FOR ARTHUR LAMAR  
ADAMS AND MADISON TIMBER  
PROPERTIES, LLC,

*Plaintiff,*

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.*

Case No. 3:18-cv-00866-CWR-BWR

**Hon. Carlton W. Reeves**

**ORAL ARGUMENT REQUESTED**

**BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ PC'S  
MOTION TO CONDUCT INVESTOR DISCOVERY**

In response to the Court's Orders, ECF No. 592 (Case No. 3:22-cv-36, *In re Consolidated Discovery*); ECF No. 670 at 2 & n.1 (Case No. 3:22-cv-36); ECF No. 122 at 1 (Case No. 3:18-cv-866, *Mills v. Butler Snow LLP et al.*), Baker, Donelson, Bearman, Caldwell & Berkowitz P.C. ("Baker Donelson") resubmits its request to take discovery from investors. Baker Donelson respectfully requests the Court to permit discovery from individuals and entities who invested in Madison Timber because the requested discovery seeks nonprivileged information, relevant to the parties' claims or defenses and proportional to the needs of the case.

The grounds for this motion are included in the memorandum of law filed herewith. Additionally, Baker Donelson offers the following Exhibits in support of the motion: **Exhibit A**, Baker Donelson's proposed investor document subpoena; **Exhibit B**, Baker Donelson's

proposed investor questionnaire; **Exhibit C**, a copy of the transcript of the status conference proceedings before the Honorable F. Keith Ball, held on December 7, 2021; **Exhibit D**, a copy of a letter sent by the Receiver to the Honorable F. Keith Ball, on December 3, 2021; **Exhibit E**, a copy of the transcript of the motion hearing proceedings before the Honorable Carlton W. Reeves, held on June 11, 2021; and **Exhibit F**, a redacted copy of an excerpt of the document bearing Bates number MTR\_00321853, downloaded from the Receiver's data room.

Dated this 21st day of November, 2023

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ PC**

/s/ Craig D. Singer

Craig D. Singer (*pro hac vice*)  
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*Counsel for Defendant Baker, Donelson,  
Bearman, Caldwell & Berkowitz PC*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 21, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

/s/ Craig D. Singer  
Craig D. Singer (*pro hac vice*)



## **Exhibit A**

**EXHIBIT A TO SUBPOENA**

You are requested to locate, gather, and deliver all of the documents and information identified below that are in your possession, custody, or control. This request also includes documents and information within the possession, custody, or control of your spouse or other family members, your agents, or your attorneys, or other representatives.

If you have questions about a particular request below, please see the Definitions and Instructions at the end of this subpoena.

**REQUESTS FOR DOCUMENTS AND INFORMATION**

1. All documents reflecting or relating to your investments with Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber, including any promissory notes, security agreements, timber deeds, title reports or opinions or certificates, bank statements, checks, or communications.
2. All documents reflecting or relating to any meeting, discussion, or other communication with Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber.
3. All documents reflecting or relating to your decision to invest with, or lend money to, or to stop investing with or lending money to Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber, including any communications with family members, financial advisors, bankers, accountants, or any other professionals.
4. All communications between you and any other Madison Timber investor about Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber.
5. All documents reflecting or relating to any losses you believe you have incurred because of your investment with Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber.

6. If your investment with Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber was through a limited liability company, trust, corporation, limited liability partnership, or any other entity, then:

- a. all documents that reflect the identity of the members, managers, trustees, owners, directors, officers, partners, trustees, administrators, of any such investing entity at the time of each investment, including documents reflecting the ownership percentages of all people who held an interest in such entity;
- b. all documents that name, identify, or list the people who owned an interest in any such investing entity and their ownership percentages; and
- c. all corporate organization documents and meeting minutes of any such investing entity.

7. If any member of your family or household or a friend or acquaintance participated in any way in your investment in Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber, all documents that relate to that person's participation in the investment, including all communications in which that person participated, related to the investment, Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber.

8. All documents you have received from, or provided to, any federal or state authorities or agencies that relate to Adams, Madison Timber, the Ponzi Scheme, ASTFI, or any intermediary for Adams or Madison Timber.

9. All documents that memorialize, constitute, or relate to any oral or written statement given to any federal or state authorities or agencies that relate to Adams, Madison Timber, the Ponzi Scheme, ASTFI, or any intermediary for Adams or Madison Timber.

10. All documents that you have received from or provided to any person in connection with the following court actions in the United States District Court for the Southern District of Mississippi: (a) *SEC v. Adams, et al.*, Case No. 3:18-cv-252; (b) *U.S. v. Adams*, No. 3:18-cr-88; (c) *U.S. v. McHenry*, No. 3:19-cr-20; (d) *Mills v. Butler Snow, et al.*, No. 3:18-cv-866; (e) *Mills v. Michael D. Billings, et al.*, No. 3:18-cv-679; (f) *Mills v. BankPlus, et al.*, No. 3:19-cv-196; (g) *Mills v. Trustmark, et al.*, No. 3:19-cv-941; (h) *Mills v. Stuart Anderson, et al.*, No. 3:20-cv-427; (i) *Mills v. The UPS Store, Inc., et al.*, No. 3:19-cv-364; (j) *U.S. v. Alexander*, 3:20-cr-31; or (k) *U.S. v. Seawright*, 3:21-cr-7.

11. All communications between you and any other Madison Timber investor about the Madison Timber Receivership or the court actions identified in Request No. 10.

12. All documents reflecting or relating to any communications with any of the persons or entities against which the Receiver has asserted claims in the court actions identified in Request No. 10, including any employee or other agent of any such person or entity, relating to Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber.

13. All documents reflecting or relating to your tax or accounting treatment of any investment with Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber, including any communications with any accountants or the Internal Revenue Service that relate to such investments.

14. All documents reflecting or relating to any communications you had with any banker, accountant, financial advisor, or other professional regarding your investment with Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber.

15. All invoices you received from any attorney from whom you sought advice related to your investment with Adams, Madison Timber, ASTFI, or any intermediary for Adams or Madison Timber.

16. All documents you have received from, or provided to, the Receiver, including any communications, agreements, contracts, or assignments between you and the Receiver.

17. All documents by which you assigned any claims to the Receiver and all emails, letters, text messages, or other documents that relate to the assignments.

### **DEFINITIONS**

For purposes of this subpoena, the following definitions shall apply:

1. “**Adams**” refers to Arthur Lamar Adams.
2. “**Madison Timber**” refers to Madison Timber Company, Inc.; Madison Timber Properties, LLC; and any other entity that Adams controlled and was involved in the Ponzi Scheme.
3. The “**Ponzi Scheme**” is the Ponzi scheme operated by Adams through Madison Timber, as described in the criminal charges against Adams in *U.S. v. Adams*, No. 3:18-cr-00088-CWR-LRA (S.D. Miss. May 1, 2018).
4. The “**Receiver**” refers to Alysson Mills, in her capacity as the court-appointed receiver for estates of Adams and Madison Timber, as well as her attorneys, agents, and anyone else working on her behalf or direction, including Brent Barriere of the law firm Fishman Haygood, LLP, Lilli Evans Bass of the law firm Brown Bass & Jeter, PLLC, and Kristen Amond formerly of the law firm Mills & Amond, LLP.
5. The term “**ASTFI**” refers to Alexander Seawright Timber Fund I, LLC.
6. The term “**federal or state authorities or agencies**” includes without limitation the Federal Bureau of Investigation, the United States Securities and Exchange Commission, the

United States Attorney's Office for the Southern District of Mississippi, the United States Probation Office, the Internal Revenue Service, the United States Secret Service, the Mississippi Attorney General's Office, the Mississippi Secretary of State's Office, the Mississippi Department of Banking and Consumer Finance, or any Mississippi District Attorneys' Office(s).

7. The term "**person**" means any individual or any entity, including corporations, proprietorships, partnerships, joint ventures, consortiums, clubs, associations, unions, foundations, government agencies or instrumentalities, societies, or any other group.

8. The term "**intermediary**" means any person or entity with whom or through which you dealt in order to invest in or lend money to Madison Timber, the Ponzi Scheme, or Adams. Intermediary would include any persons who solicited, facilitated, or assisted your investment or loan with Madison Timber, the Ponzi Scheme, or Adams, whether directly or through a separate company or entity of any kind.

8. The term "**documents**" has the broadest meaning possible under the Federal Rules of Civil Procedure, including Rule 34, and the Federal Rules of Evidence, and includes both paper and electronic documents and data of any kind.

9. The term "**communications**" means any transmission, exchange, or transfer of information from one person to another, including by letter, memorandum, personal meeting, telephone, telegraph, radio, facsimile, electronic mail, text message, social media (e.g., Facebook Messenger, WhatsApp), or any other means.

10. The term "**relate to**" means in whole or in any part alluding to, responding to, concerning, relating to, connected with, involving, commenting on, in respect of, about, associated with, discussing, evidencing, showing, describing, reflecting, analyzing, summarizing,

memorializing, consisting of, constituting, identifying, stating, tending to support, tending to discredit, referring to, or in any way touching upon.

11. As used herein, the words “**and**” and “**or**” shall be construed both conjunctively and disjunctively, and each shall include the other wherever such dual construction will serve to bring within the scope of the Request any document or information that would otherwise not be brought within its scope.

12. As used herein, the word “**including**” should be read inclusively and should not be read to limit or narrow the request to the enumerated items.

13. As used herein, the singular form shall include the plural and vice versa wherever such dual construction will serve to bring within the scope of the Request any document or information that would otherwise not be brought within its scope.

14. The term “**original**” as used herein does not refer to any copy, photocopy, scan, facsimile, image, photograph, print or other reproduction of a document.

### **INSTRUCTIONS**

1. In light of ongoing claims and actions brought by the Receiver, please retain and do not destroy any documents, originals or copies, that relate to Adams or Madison Timber or the Ponzi Scheme.

2. In lieu of production to the address listed above, you may email all written responses and documents produced in response to these Requests to James Crongeyer (jcrongeyer@watkinseager.com).

3. A protective order has been entered by the court to protect confidential information. This protective order is applicable to any documents produced in response to this subpoena and you may designate such documents as “CONFIDENTIAL” if allowed by the terms of the protective order, a copy of which is enclosed with this subpoena for your reference.

4. These requests call for the production of all responsive documents and electronically stored information in the possession, custody, control of, or available to, you, your spouse, your family members, and your attorneys, employees, officers, directors, representatives, accountants, auditors, agents, bankers, brokers, subsidiaries, affiliates, investigators, consultants, experts, witnesses, or other persons or entities acting on your behalf, in your employment, or under your direction or control or the direction or control of your representatives.

5. If a request read literally requires the production of a part or portion of a document or electronically stored information, production of the entire document or electronically stored information is requested.

6. If you deem any document requested by any of the following requests to be protected from disclosure by the attorney-client privilege, work-product doctrine, or any other privilege, doctrine, or immunity, please identify or describe: (i) the information, document, or



communication alleged to be so protected by author, subject matter, and date; (ii) the names of all recipients of the information, document, or communication; and (iii) all bases upon which such protection rests.

7. Absent a separate written agreement or order of the court with regard to the form of production of electronically stored information, all electronically stored information should be produced in the form in which it is ordinarily maintained (i.e., native format) with all metadata intact.

8. If there is any question as to the meaning of any part of these Requests, or an issue as to whether production of any documents requested herein would impose an undue burden on you, please promptly email or call James Crongeyer to discuss these matters, and you should respond to the remainder of these Requests as written.

9. If no documents exist that are responsive to a Request, or if no such documents are in your possession, custody, or control, so state in writing.

10. If any Request cannot be responded to fully, provide as full a response as possible, state the reason for the inability to answer fully, and provide any information, knowledge, or belief that you have regarding the unanswered portion.

11. If any document responsive to these Requests was, but no longer is, in your possession, custody, or control, please identify that document and the person to whom you gave that document and/or who now has possession, custody, or control of that document.

12. If any Request is deemed to call for documents that have been lost, destroyed or discarded, please furnish an inventory containing the following information: (a) the type of document (e.g., letter, memorandum, handwritten notes); (b) the title, date, number of pages, and author of the document, if applicable; (c) the names of any other persons who participated in the

preparation of the document, if applicable; (d) the addressee and the names of any other recipients of the document, if applicable; (e) the subject matter of the document, if applicable; (f) the date on which the document was lost, destroyed, or discarded; (g) the names of the persons ordering, authorizing, participating in or with knowledge of such loss, destruction, or discarding; and (h) the reason or cause of the loss, destruction, or discarding.

## **Exhibit B**

**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

v.

BUTLER SNOW LLP et al.

Case No. 3:18-cv-00866-CWR-BWR

**SUBPOENA TO PRODUCE INFORMATION IN A CIVIL ACTION**

To: [NAME]

You have received this subpoena because you or entities associated with you may have contributed money to Madison Timber Properties, a company formerly operated by Lamar Adams of Jackson, Mississippi.

Madison Timber was a Ponzi scheme. In May 2018, Lamar Adams pleaded guilty to the federal crimes of wire fraud and bank fraud. After the collapse of Madison Timber Properties, the Court appointed Alysson Mills as a receiver of the estates of Lamar Adams and Madison Timber Properties. Civil litigation between the receiver and several defendants is pending.

Pursuant to Federal Rule of Civil Procedure 45 and order of the United States District Court for the Southern District of Mississippi, you are hereby instructed to complete the attached questionnaire. Within 30 days of receipt of this subpoena, you must complete your answers and return them, by mail or email, to the attorneys below:

Brent B. Barriere  
FISHMAN HAYGOOD LLP  
201 St. Charles Ave., Suite 5600  
New Orleans, Louisiana 70170  
bbarriere@fishmanhaygood.com

James J. Crongeyer, Jr.  
WATKINS & EAGER PLLC  
400 East Capitol Street  
Jackson, Mississippi 39201  
jcrongeyer@watkinseager.com

The following provisions of Federal Rule of Civil Procedure 45 are attached: Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

SO ORDERED on the \_\_ day of January 2024.

\_\_\_\_\_  
HON. BRADLEY W. RATH  
UNITED STATES MAGISTRATE JUDGE

## QUESTIONNAIRE

Please answer the following questions fully and accurately to the best of your recollection.

**What is your full name and address?**

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**What is your profession or occupation?**

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**What is your highest level of education obtained, including the degree and institution?**

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**Did you hold any professional licenses when you made your first contribution to Madison Timber? If so, which?**

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**How did you first learn about Madison Timber?**

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**How much money did you contribute to Madison Timber?**

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**How much money did you receive in payments from Madison Timber (including both principal and interest)?**

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**On which dates did you contribute money to Madison Timber?**

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**Which specific people or companies did you give your money to?**

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**Did you make your contribution in your name or someone else's (e.g., a spouse, a company, a trust, etc.)? If someone else, who?**

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**In each of the two years prior to your first contribution to Madison Timber:**

	Yes	No
Did your individual income exceed \$200,000?	<input type="checkbox"/>	<input type="checkbox"/>
Did your income, combined with your spouse's, exceed \$200,000?	<input type="checkbox"/>	<input type="checkbox"/>

**At the time you made your first contribution to Madison Timber:**

	Yes	No
Did your individual net worth exceed \$1,000,000?	<input type="checkbox"/>	<input type="checkbox"/>
Did your net worth, combined with your spouse's, exceed \$1,000,000?	<input type="checkbox"/>	<input type="checkbox"/>

**What documents did you receive relating to Madison Timber?**

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**Did you communicate with any of these individuals about Madison Timber?**

	Yes	No		Yes	No
Alysson Mills	<input type="checkbox"/>	<input type="checkbox"/>	Jon Seawright	<input type="checkbox"/>	<input type="checkbox"/>
Arthur Lamar Adams	<input type="checkbox"/>	<input type="checkbox"/>	Jud Watkins	<input type="checkbox"/>	<input type="checkbox"/>
Austin Elsen	<input type="checkbox"/>	<input type="checkbox"/>	Martin Murphree	<input type="checkbox"/>	<input type="checkbox"/>
Bennie Butts	<input type="checkbox"/>	<input type="checkbox"/>	Matt Thornton	<input type="checkbox"/>	<input type="checkbox"/>
Brent Alexander	<input type="checkbox"/>	<input type="checkbox"/>	Michael D. Billings	<input type="checkbox"/>	<input type="checkbox"/>
Chandler Westover	<input type="checkbox"/>	<input type="checkbox"/>	Stewart Patridge	<input type="checkbox"/>	<input type="checkbox"/>
Courtney Herring	<input type="checkbox"/>	<input type="checkbox"/>	Stuart Anderson	<input type="checkbox"/>	<input type="checkbox"/>
Diane Lofton	<input type="checkbox"/>	<input type="checkbox"/>	Tammie Elsen	<input type="checkbox"/>	<input type="checkbox"/>
Gee Gee Patridge	<input type="checkbox"/>	<input type="checkbox"/>	Tammy Vinson	<input type="checkbox"/>	<input type="checkbox"/>
James Shell	<input type="checkbox"/>	<input type="checkbox"/>	Terry Wayne Kelly	<input type="checkbox"/>	<input type="checkbox"/>
Jason Cowgill	<input type="checkbox"/>	<input type="checkbox"/>	William ("Bill") McHenry	<input type="checkbox"/>	<input type="checkbox"/>
Jeannie Chisholm	<input type="checkbox"/>	<input type="checkbox"/>			

**Did you communicate with any other investors in Madison Timber or any other individuals not listed (including any attorney, accountant, tax professional, banker, broker, or investment advisor)? If so, who?**

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**Did you recommend Madison Timber to anyone? If so, to whom?**

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**Did you communicate with any of these entities about Madison Timber?**

	Yes	No		Yes	No
Alexander Seawright, LLC	<input type="checkbox"/>	<input type="checkbox"/>	Kelly Management LLC	<input type="checkbox"/>	<input type="checkbox"/>
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC	<input type="checkbox"/>	<input type="checkbox"/>	MDB Group LLC	<input type="checkbox"/>	<input type="checkbox"/>
Bankplus	<input type="checkbox"/>	<input type="checkbox"/>	Mutual of Omaha Insurance Company	<input type="checkbox"/>	<input type="checkbox"/>
Bankplus Wealth Management	<input type="checkbox"/>	<input type="checkbox"/>	Mutual of Omaha Investor Services, Inc.	<input type="checkbox"/>	<input type="checkbox"/>
Butler Snow Advisory Services LLC	<input type="checkbox"/>	<input type="checkbox"/>	Rawlings & MacInnis, PA	<input type="checkbox"/>	<input type="checkbox"/>
Butler Snow LLP	<input type="checkbox"/>	<input type="checkbox"/>	Riverhills Bank	<input type="checkbox"/>	<input type="checkbox"/>
Continental Casualty Company	<input type="checkbox"/>	<input type="checkbox"/>	Shell Investments LLC	<input type="checkbox"/>	<input type="checkbox"/>
Federal Insurance Company	<input type="checkbox"/>	<input type="checkbox"/>	Southern Bancorp Bank	<input type="checkbox"/>	<input type="checkbox"/>
First South Investments LLC	<input type="checkbox"/>	<input type="checkbox"/>	The UPS Store Inc.	<input type="checkbox"/>	<input type="checkbox"/>
Herring Ventures LLC	<input type="checkbox"/>	<input type="checkbox"/>	Trustmark National Bank	<input type="checkbox"/>	<input type="checkbox"/>

**Which people at these entities did you communicate about Madison Timber with?**


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**Have you sold or assigned your legal claims relating to Madison Timber to anyone? If so, who?**


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**Did an attorney or anyone else assist you in preparing your responses to this questionnaire? If so, who?**

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I affirm that I have answered these questions fully and accurately to the best of my recollection.

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*Signature*