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May 17, 2013

VIA E-FILE AND FACSIMILE

The Honorable Barbara R. Kapnick
Supreme Court of the State of New York
60 Centre Street
New York, NY 10007

Re: *In re the application of The Bank of New York Mellon*
(Index No. 651786/2011)

Dear Justice Kapnick:

Contrary to Mr. Warner's latest missive, it is and always has been our position that all evidence—each and every piece of it—will be exchanged pre-trial so that no one is surprised at trial. Mr. Warner's suggestion that the Federal Home Loan Banks of Boston, Chicago, and Indianapolis and the Triaxx entities have some other intention with regard to evidence supporting Bank of America's failure to repurchase modified loans and self-dealing, or the Trustee's release of these claims without evaluating them is a fabrication.

There is nothing unusual about preventing settlement proponents from taking discovery of objectors. It rarely is allowed. The Trustee made the decision to enter into a settlement that releases not just their own claims, but those of every Certificateholder in the 530 Covered Trusts, without even attempting to obtain consent, or providing a right to opt-out. Since our clients did not ask for this settlement, and already have incurred substantial expense to protect themselves from it, they should not be subjected to time consuming, and harassing questioning by the lawyers that have forced the settlement on them.

5/17/2013

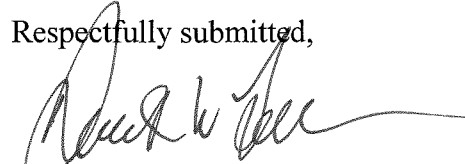
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Mr. Warner also complains that we have failed to tell him when corporate representatives are available for deposition. Indeed, we do not believe it is appropriate to schedule depositions, when we have been provided an opportunity to brief our objection and have argument on it. Surely, Mr. Warner is not in the habit of scheduling depositions that he does not believe should occur. We have conferred with our clients, and in the event the depositions are required, we will produce the witnesses at the earliest date possible.

We appreciate your Honor's attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Derek W. Loeser", with a long horizontal flourish extending to the right.

Derek W. Loeser

cc: Counsel of record (via ECF)