

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (LGB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively  
Consolidated SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and the Chapter 7 Estate of  
Bernard L. Madoff,

Plaintiff,

v.

MALCOLM SAGE and LYNNE FLORIO,

Defendants.

Adv. Pro. No. 23-01099 (LGB)

**CASE MANAGEMENT PLAN**

Plaintiff Irving H. Picard, as trustee (the “Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the chapter 7 estate of Bernard L. Madoff individually, and defendants Malcolm Sage and Lynne Florio (“Defendants,” and together with the Trustee, the “Parties,” and each individually, a “Party”), by and through their respective undersigned counsel, hereby submit the following Case Management Plan pursuant to Rules 16 and 26 of the Federal

Rules of Civil Procedure (the “Federal Rules”), applicable under Rules 7016 and 7026 of the Federal Rules of Bankruptcy Procedure.

1. Relevant Procedural History. On April 19, 2023, the Trustee commenced the above-captioned adversary proceeding in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) by filing a complaint against Defendants. ECF No. 1. On February 12, 2024, each Defendant answered the Trustee’s complaint. ECF Nos. 73 & 74.

2. Fact Discovery Plan

a. Fact Discovery Cut-Off. Unless otherwise agreed to by the Parties and ordered by the Bankruptcy Court, all fact discovery is to be completed by March 31, 2025 (the “Fact Discovery Cut-Off Date”).

b. Initial Disclosures. The Parties agree that they shall serve initial disclosures within 30 days of the Bankruptcy Court’s entry of this Case Management Plan.

c. Subjects on Which Discovery May Be Needed. The Parties contemplate that fact and expert discovery will be needed on asserted claims and defenses.

d. Document Requests. The Parties may serve requests for documents on or before 45 days before the Fact Discovery Cut-Off Date.

e. Interrogatories. The Parties may serve Interrogatories in accordance with the rules and limitations articulated in Local Bankruptcy Rule 7033-1.

f. Requests for Admission. The Parties may serve Requests for Admission on or before 45 days before the Fact Discovery Cut-Off Date.

g. Limitations on Discovery. Limitations on written discovery will be governed by the Federal Rules made applicable to this adversary proceeding by the Federal Rules of

Bankruptcy Procedure and the Local Bankruptcy Rules. The Parties may agree on certain limitations on discovery or may file an application with the Court for good cause.

h. Inadvertent Production of Privileged Materials. The Parties acknowledge that the inadvertent production of privileged or work product protected documents is not a waiver of the privilege or protection from discovery in this case or in any other federal or state proceeding. This Order shall be interpreted to provide the maximum protection allowed by Federal Rule of Evidence 502(d). Nothing contained in this paragraph is intended to or shall serve to limit a Party's right to conduct a review of documents, including electronically stored information, for relevance, responsiveness, and/or privileged and/or protected status.

i. Depositions.

i. All depositions of fact witnesses must be completed by the Fact Discovery Cut-Off Date. Depositions shall proceed concurrently, with no Party having priority.

3. Expert Discovery Plan.

a. Expert Discovery Cut-Off. All expert discovery is to be completed by June 30, 2025 (the "Expert Discovery Cut-Off Date").

b. Experts. Each Party that intends to offer expert testimony must make the disclosures required by Federal Rule 26(a)(2) on or before April 30, 2025. Each Party that intends to offer expert testimony to rebut such disclosures must make the rebuttal disclosures required by Federal Rule 26(a)(2) on or before June 2, 2025.

c. Additional Expert Testimony. No expert testimony (whether designated as "rebuttal" or otherwise) will be permitted (i) by an expert that has not been disclosed in accordance with the Federal Rules, or (ii) on any issue that is beyond the scope of the opinion covered by the

disclosures except on prior express permission of the Court, upon application made no later than June 16, 2025.

d. Deposition of Expert Witnesses. All experts may be deposed, but all such depositions, except as to any additional expert opinions allowed pursuant to Paragraph 3(c), must occur on or before Expert Discovery Cut-Off Date but not later than 30 days after service of rebuttal expert reports, if any, pursuant to Paragraph 3(b). The deadline for expert depositions will not affect the Parties' duties to supplement expert disclosures as required by Federal Rule 26. All depositions of expert witnesses proffered by the Trustee shall occur at the offices of Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, NY 10111, or such other location agreed upon by the Parties.

e. Manner of Production of Discovery Materials. The Parties may produce discovery on a CD-ROM, flash drive, portable hard drive, in an electronic data room, secure or encrypted file transfer, or other similar electronic format. Given the age and condition of some of the anticipated discovery, the Parties agree to meet and confer for the purpose of agreeing on an appropriate protocol for production so as to avoid unnecessary burdens and costs of production and review.

The Parties shall meet and confer first in a good faith attempt to resolve any dispute, or thereafter comply with Local Bankruptcy Rule 7007-1 to resolve the dispute.

4. Confidentiality. The Litigation Protective Order (Doc. No. 4137) entered on June 6, 2011 in Adv. Pro. No. 08-01789 shall govern the disclosure of confidential information in this proceeding, except to the extent that the same has been modified by subsequent orders of the Bankruptcy Court.

5. Discovery Arbitrator. The Parties may agree to the use of Frank Maas, Esq. or other agreed upon individual as Discovery Arbitrator to resolve discovery disputes that they are unable to resolve by meeting and conferring, as referenced in the Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390 (ECF No. 14227) entered on October 4, 2016 in Adv. Pro. No. 08-01789.

6. Trial. The Parties propose that they will confer with each other and the Court at the conclusion of all discovery to schedule a final pretrial conference and trial date, subject to Defendants' right to move for an order withdrawing the reference when this adversary proceeding is trial-ready. After the court's disposition of the motion to withdraw the reference, the parties shall meet and confer with each other thereafter to schedule a final pretrial conference and trial date in the so ordered forum.

*[Signatures on following page]*

Dated: April 17, 2024  
New York, New York

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*Attorneys for Defendants*

**SO ORDERED.**

Dated: April 18, 2024  
New York, New York

/s/ Lisa G. Beckerman  
**Honorable Lisa G. Beckerman  
United States Bankruptcy Judge**