

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

**SPORT & WHEAT CPA PA,**  
a Florida corporation, individually  
and on behalf of a class of  
similarly situated businesses and  
individuals,

Plaintiff,

v.

**SERVISFIRST BANK INC.;**  
**SYNOVUS BANK;**  
**THE FIRST, A NATIONAL**  
**ASSOCIATION; and**  
**TRUIST BANK,**

Defendants.

Case No. 3:20-cv-5425-TKW-HTC

**DEFENDANT TRUIST BANK'S RESPONSE TO PLAINTIFF'S**  
**MOTION FOR EXTENSION OF TIME**  
**TO PREPARE AN OMNIBUS RESPONSE**

Pursuant to this Court's Order of July 8, 2020 [Dkt. No. 79], Defendant Truist Bank ("Truist") submits this response to Plaintiff Sport & Wheat ("Sport & Wheat")'s Motion for Extension of Time to Prepare an Omnibus Response [Dkt. No. 76]. As Sport & Wheat informed the Court [Dkt. No. 77], Truist does not consent to the Motion.

Truist does not oppose the requested extension of time. But Truist does oppose Sport & Wheat's request to submit an omnibus response to Truist's Motion

to Dismiss [Dkt. No. 67] and the motions to dismiss filed by Defendants ServisFirst [Dkt. No. 49] and The First [Dkt. No. 69].

Truist's Motion to Dismiss is unique among its co-defendants' motions and Truist thus believes consolidation is inappropriate. Truist makes similar arguments to those raised by the other defendants here; however, as Sport & Wheat's opposition to Synovus' Motion to Dismiss illustrates [Dkt. No. 56], the pled and unpled facts relevant to Sport & Wheat's purported claims are specific to and vary by each defendant. Sport & Wheat's desire to throw all three defendants' facts together in hopes that in combination there is enough to support a claim will only complicate the Court's task of resolving each defendant's motion.

In addition, Truist makes unique legal arguments. It is the only defendant to explicitly contend that the First Interim Final Rule's subsection addressing the payment of agent fees from the lender's fee is invalid. Truist also approaches other issues differently than its co-defendants, including by clarifying that federal law preempts Sport & Wheat's purported state law claims.

Given these differences, Truist's Motion to Dismiss warrants an individual response. Truist supports judicial efficiencies and its opposition does not preclude Sport & Wheat from duplicating or cross-referencing arguments that it contends applies to multiple briefs. But Truist maintains that individual responses tailored to the facts pled about Truist and the arguments made by Truist will better serve this

Court in evaluating the distinctive grounds Truist raises for dismissing the Amended Complaint. Truist therefore requests that this Court deny Sport & Wheat's motion to the extent that it seeks leave to file an omnibus response.

This 9th day of July, 2020.

/s/ Cheryl L. Haas

Cheryl L. Haas (*Admitted Pro Hac Vice*)  
Georgia Bar No. 316081  
chaas@mcguirewoods.com  
Meredith Laughlin Allen (*Admitted Pro Hac Vice*)  
Georgia Bar No. 901999  
mlallen@mcguirewoods.com  
McGUIREWOODS LLP  
1230 Peachtree Street N.E., Suite 2100  
Atlanta, GA 30309-3534  
T: (404) 443-5500  
F: (404) 443-5599

Kathryn M. Barber (*Admitted Pro Hac Vice*)  
Virginia Bar No. 88992  
kbarber@mcguirewoods.com  
McGUIREWOODS LLP  
Gateway Plaza  
800 East Canal Street  
Richmond, VA 23219-3916  
T: (804) 775-1227  
F: (804) 698-2227

Emily Y. Rottmann  
Florida Bar No. 93154  
erottman@mcguirewoods.com  
McGUIREWOODS LLP  
50 N Laura Street, Suite 3300  
Jacksonville, FL 32202  
T: (904) 798-3200  
F: (904) 798-3207  
*Attorneys for Truist Bank*

**CERTIFICATE OF SERVICE**

I, Cheryl L. Haas, do hereby CERTIFY that a true and correct copy of the foregoing Defendant Truist Bank's Response to Plaintiff's Motion for Extension of Time to Prepare an Omnibus Response has been furnished to all counsel of record via ECF on this 9th day of July 2020.

/s/ Cheryl L. Haas

Cheryl L. Haas (*Admitted Pro Hac Vice*)

Georgia Bar No. 316081

chaas@mcguirewoods.com