

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 21-2989-MDL-ALTONAGA/Torres

IN RE:

**JANUARY 2021 SHORT SQUEEZE
TRADING LITIGATION**

This Document Relates to the Non-Federal Securities Actions

**PLAINTIFFS' MOTION AND MEMORANDUM OF LAW IN SUPPORT OF AN ORDER TO
LIFT THE DISCOVERY STAY FOR LIMITED PURPOSE**

Plaintiffs in the non-federal securities actions ("Plaintiffs") by and through their undersigned counsel, respectfully move for the entry of an Order, in the form filed herewith, lifting the discovery stay for the limited purpose of issuing a subpoena pursuant to Fed. R. Civ. P. 45 ("Rule 45") commanding The Depository Trust & Clearing Corporation ("DTCC") to produce records within the scope of the Court's June 3, 2021 Order [ECF No. 323] (the "Motion").

I. FACTUAL AND PROCEDURAL HISTORY

On June 3, 2021, the Court ordered that "[r]ecords already produced by Defendants to Congress and other government entities shall be produced to Plaintiffs upon request" and stayed all other discovery pending resolution of the forthcoming motions to dismiss. June 3, 2021 Order [ECF No. 323], at 2. That same day, Plaintiffs requested that Defendants, including DTCC, produce records to Plaintiffs consistent with the Court's June 3, 2021 Order. DTCC asserted immunity from party discovery until a ruling on its anticipated motion to dismiss raising its immunity defense and declined to produce any records to Plaintiffs. Plaintiffs and DTCC met and conferred in good faith but were unable to resolve the issue.

On July 27, 2021, Plaintiffs in the Antitrust Tranche, the Robinhood Tranche and the Other Broker Dealer Tranche filed their respective consolidated class action complaints, neither of which name DTCC as a party. [ECF Nos. 358, 359]. As a result, DTCC is no longer a party to this multidistrict litigation.

II. ARGUMENT

Given that DTCC is no longer a party, the immunity from party discovery that DTCC previously asserted is no longer at issue. As such, Plaintiffs respectfully request an Order lifting the discovery stay to allow Plaintiffs to issue a Rule 45 subpoena to DTCC commanding the production of records that were ordered to be produced pursuant to the Court's June 3, 2021 Order [ECF No. 323].

DTCC has informed Plaintiffs that it takes no position with respect to the instant motion nor does DTCC take a position with respect to a lift of the discovery stay. In other words, DTCC does not object to Plaintiffs issuing non-party document discovery as to DTCC, while reserving all rights under the Federal Rules of Civil Procedure with respect to that discovery. Correspondingly, Plaintiffs reserve all rights with respect to that discovery as well.

Further, Plaintiffs' request is limited to the materials the Court has ordered to be produced by the parties to the litigation. Plaintiffs seek to lift the discovery stay solely to issue a Rule 45 subpoena commanding the production of documents from DTCC within the scope of the Court's June 3, 2021 Order [ECF No. 323].

III. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request the entry of an Order lifting the discovery stay for the limited purpose of issuing a Rule 45 subpoena commanding DTCC to produce records within the scope of the Court's June 3, 2021 Order [ECF No. 323].

CERTIFICATE OF GOOD FAITH CONFERENCE

Pursuant to Local Rule 7.1(a)(3)(A) and (B), Plaintiffs' Co-Lead Counsel for the Antitrust Tranche hereby certifies that on August 10, 2021, and August 13, 2021, it attempted to confer via email with all counsel of record for Defendants and with counsel for non-party DTCC, who may be affected by the relief sought in this Motion. In a good faith effort to resolve the issues raised herein, Plaintiffs' Co-Lead Counsel for the Antitrust Tranche circulated drafts of this Motion and requested that counsel advise as to their client's position by 2:00 p.m. EST August 16, 2021. Counsel for Defendant SoFi Securities LLC and counsel for non-party DTCC responded that their clients take no position with respect to the requested relief. Counsel for the remaining Defendants did not respond or raise any opposition to the Motion.

Dated: August 17, 2021

Respectfully submitted,

/s/ Joseph R. Saveri

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on August 17, 2021, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF filing system. I further certify that this motion was served on all counsel of record via transmission of the Notice of Electronic Filing generated by the Court's CM/ECF system.

By: /s/ Rachel W. Furst

Rachel Wagner Furst