IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CONSUMER FINANCIAL PROTECTION BUREAU Plaintiff, v. THE NATIONAL COLLEGIATE MASTER STUDENT LOAN TRUST, et al. Defendants.	C.A. No. 17-cv-01323-MN

INTERVENOR AMBAC ASSURANCE CORPORATION'S
EMERGENCY MOTION FOR AMENDMENT OF THE CASE SCHEDULING ORDER

Intervenor Ambac Assurance Corporation ("Ambac") respectfully requests that the Court issue an order amending the Court's Scheduling Order (D.I. 99) to afford the Intervenors an additional five hours of total time for taking testimony by oral deposition in Phase One of this action, which would increase the current limit from 20 hours to 25 hours.[1] Ambac moves for emergency relief because the two remaining Phase One depositions are scheduled to occur on Tuesday and Wednesday of this week. In support thereof, Ambac states as follows:

1. On November 29, 2018, the Court entered a Scheduling Order (the 'Order") (D.I. 99) bifurcating this action into two phases. The Order authorized the parties to take party and non-party discovery concerning the two threshold issues identified by the Court for adjudication in Phase One of this action.

[1] The Noteholders join in Ambac's request. Pursuant to L.R. 7.1.1, the parties met and conferred and the CFPB has informed counsel for Ambac that it does not consent to the requested relief.

2. With respect to Phase One depositions, the Order provided that the Intervenors were collectively limited to a total of 20 hours for taking testimony by oral deposition. This limit had been proposed by Intervenors, (D.I. 98), at a time when the full scope of discoverable evidence and relevant witnesses was not yet known.

3. The Intervenors will be deposing Jorge Rodriguez-Lugo of VCG Securities LLC and Lance Gotthoffer of Chaitman LLP in West Palm Beach, Florida on Tuesday and Wednesday of this week. Mr. Rodriguez-Lugo and Mr. Gotthoffer are the only two remaining witnesses scheduled to be deposed during Phase One of this action.

4. Mr. Rodriguez-Lugo and Mr. Gotthoffer were both involved in McCarter's negotiation of the Proposed Consent Judgment with the CFPB and the decision to have McCarter execute the Proposed Consent Judgment on behalf of the Trusts. As such, their testimony is highly relevant to adjudication of the threshold issues.

5. Just two weeks ago, on January 28, 2020, Mr. Gotthoffer's firm, Chaitman LLP, belatedly completed its production of approximately 6,000 documents. Chaitman's production, as well as the productions of other non-parties, contain numerous documents directly relevant to the threshold issues and ripe for examination at the depositions of both Mr. Rodriguez-Lugo and Mr. Gotthoffer.

6. To date, the parties to this action have deposed three witnesses: James Kosch of McCarter & English LLP, Dorri Costello of Wilmington Trust Company, and Donald Uderitz of VCG Securities LLC. Across those three depositions, Ambac estimates that the Intervenors have used approximately 15 of their 20 allotted hours for Phase One depositions.

7. In order to afford the Intervenors sufficient time to elicit testimony from Mr. Rodriguez-Lugo and Mr. Gotthoffer, Ambac respectfully requests that the Court increase the limit

on the Intervenors' time for taking Phase One deposition testimony from 20 to 25 hours, which will allow the Intervenors to spend approximately 10 hours questioning Mr. Rodriguez-Lugo and Mr. Gotthoffer.

8. Granting the requested relief will not prejudice the parties to this action. The CFPB and the Intervenors are already scheduled to travel to West Palm Beach for both depositions and granting the Intervenors an additional five hours of time total for those depositions will not impose an undue burden on any party.[2]

WHEREFORE, Ambac respectfully requests that the Court increase the limit on Intervenors' time for taking testimony by oral deposition in Phase One from 20 hours to 25 hours.

HEYMAN ENERIO
GATTUSO & HIRZEL LLP

/s/ Melissa N. Donimirski
Kurt M. Heyman (#3054)
Melissa N. Donimirski (# 4701)
300 Delaware Avenue, Suite 200
Wilmington, DE 19801
(302) 472-7300
mdonimirski@hegh.law
Attorneys for Ambac Assurance Corporation

OF COUNSEL:

PATTERSON BELKNAP WEBB & TYLER LLP
Erik W. Haas
Peter W. Tomlinson
Joshua Kipnees
George A. LoBiondo
Peter Shakro
1133 Avenue of the Americas
New York, NY 10036
(212) 336-2000

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[2] In fact, the Intervenors sought to accommodate all parties and minimize costs by scheduling the depositions on back-to-back dates in the same city.