

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA

Fanny B. Millstein and Martin Kleinbart v. Wells Fargo Bank, N.A.

Millstein v. Wells Fargo Bank, N.A. · No. 1:24-cv-22142-GAYLES/GOODMAN · Decided March 16, 2026

SUMMARY

The United States District Court for the Southern District of Florida reviews Plaintiffs’ partial objections to a magistrate judge’s order denying their motion to strike Wells Fargo Bank’s amended affirmative defenses. Applying Federal Rule of Civil Procedure 72(a)’s clearly erroneous or contrary to law standard, the Court overrules the objections and affirms the magistrate judge’s order.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
WRITING FOR THE COURT	Darrin P. Gayles
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	March 16, 2026
DOCKET	1:24-cv-22142-GAYLES/GOODMAN
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs filed partial objections under Federal Rule of Civil Procedure 72(a) to a magistrate judge's order denying their motion to strike the defendant's amended affirmative defenses.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 72(a), a district court reviews a magistrate judge's order on a non-dispositive matter under the clearly erroneous or contrary to law standard.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status not established in the source.
PARTIES	Fanny B. Millstein, Martin Kleinbart v. Wells Fargo Bank, N.A.

TOPICS

- affirmative defenses
- pleadings
- civil procedure

PRACTICE AREAS

- Civil procedure
- Commercial litigation

QUESTIONS PRESENTED

1. Whether the magistrate judge's order denying Plaintiffs' motion to strike Wells Fargo's amended affirmative defenses was clearly erroneous or contrary to law under Federal Rule of Civil Procedure 72(a).
2. Whether the magistrate judge clearly erred or acted contrary to law in permitting Wells Fargo's negligence-based affirmative defenses at that stage of the litigation.

HOLDINGS

1. A district court reviews such an order under the highly deferential clearly erroneous or contrary to law standard.
2. The magistrate judge's order denying Plaintiffs' motion to strike Wells Fargo's amended affirmative defenses was neither clearly erroneous nor contrary to law; Plaintiffs' partial objections were overruled and the order was affirmed.

KEY QUOTATIONS

“Clear error is a highly deferential standard of review” (at *1)

“A magistrate judge’s order is contrary to law when it fails to apply or misapplies relevant statutes, case law, or rules of procedure.” (at *1)

“The standard for overturning a Magistrate Judge’s Order is a very difficult one to meet.” (at *1)

FACTUAL BACKGROUND

Plaintiffs challenged Wells Fargo's amended affirmative defenses, including negligence-based defenses, by moving to strike them. Magistrate Judge Jonathan Goodman denied the motion to strike. The district court concluded that the magistrate judge's rulings were neither clearly erroneous nor contrary to law, particularly given the unsettled standard for pleading affirmative defenses in the Eleventh Circuit.

PROCEDURAL HISTORY

The case was referred to Magistrate Judge Jonathan Goodman for pretrial, non-dispositive matters. Judge Goodman denied Plaintiffs' motion to strike Wells Fargo's amended affirmative defenses. Plaintiffs filed partial objections, Wells Fargo responded, and the district court reviewed the order under Rule 72(a).

DISPOSITION

affirmed

CASES CITED

- Bradford Emergency Group, LLC v. Blue Cross and Blue Shield of Florida, Inc., No. 21-62139, 2022 WL 4545177, at *1 (S.D. Fla. Sep. 29, 2022)
- Holton v. City of Thomasville School Dist., 425 F.3d 1325, 1351 (11th Cir. 2005)

- Thompson v. Carnival Corp., No. 20-22217, 2021 WL 7542956, at *2 (S.D. Fla. May 24, 2021)

OPINION

Millstein

PER CURIAM.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 1:24-cv-22142-GAYLES/GOODMAN

FANNY B. MILLSTEIN and

MARTIN KLEINBART,

Plaintiffs, v.

WELLS FARGO BANK, N.A.,

Defendant. _____/

ORDER

THIS CAUSE comes before the Court on Plaintiffs’ Partial Objections to the Magistrate Judge’s Order on Plaintiffs’ Motion to Strike Defendant’s Amended Affirmative Defenses (the “Objections”). [ECF No. 136]. The action was referred to Magistrate Judge Jonathan Goodman, pursuant to 28 U.S.C. § 636(b)(1)(B), for a ruling on all pretrial, non-dispositive matters, and for a Report and Recommendation on any dispositive matters. [ECF No. 42]. On July 9, 2025, Judge Goodman issued an order denying Plaintiffs’ Motion to Strike Defendant’s Amended Affirmative Defenses (the “Order”). [ECF No. 133]. Thereafter, Plaintiffs Fanny B. Millstein and Martin Kleinbart (“Plaintiffs”) filed their Objections, [ECF No. 136], and Defendant Wells Fargo Bank (“Defendant”) filed a response, [ECF No. 142]. Pursuant to Federal Rule of Civil Procedure 72(a), a district court reviews a magistrate judge’s order on a non-dispositive matter under a “clearly erroneous or [] contrary to law” standard. Fed. R. Civ. P. 72(a). “Clear error is a highly deferential standard of review” and a finding of clear error is only appropriate “if the district court ‘is left with the definite and firm conviction that a mistake has been committed.’” *Bradford Emergency Group, LLC v. Blue Cross and Blue Shield of Florida, Inc.*, No. 21-62139, 2022 WL 4545177, at *1 (S.D. Fla. Sep. 29, 2022) (quoting *Holton v. City of Thomasville School Dist.*, 425 F.3d 1325, 1351 (11th Cir. 2005)). “A magistrate judge’s order is contrary to law when it fails to apply or misapplies relevant statutes, case law, or rules of procedure.” /d. (internal quotation omitted). “The standard for overturning a Magistrate Judge’s Order is a very difficult one to meet.” /d. (internal quotation omitted). The Court has reviewed the Order and finds that it is not clearly erroneous or contrary to law. As the Eleventh Circuit has not articulated the standard for pleading affirmative defenses, the Court cannot find that Judge Goodman’s findings were clearly erroneous or contrary to law. See *Thompson v. Carnival Corp.*, No. 20-22217, 2021 WL 7542956, at *2 (S.D. Fla. May 24, 2021) (“We acknowledge that there is a split of authority in the Eleventh Circuit on the question [of whether the /gbal/Twombly plausibility standard applies to affirmative defenses].”).

Moreover, the Court finds that Judge Goodman's rulings on the applicability of Defendants' negligence-based defenses, particularly at this stage of the litigation, were not clearly erroneous or contrary to law.

CONCLUSION

Accordingly, it is ORDERED AND ADJUDGED that Plaintiffs' Partial Objections to the Magistrate Judge's Order on Plaintiffs' Motion to Strike Defendant's Amended Affirmative Defenses, [ECF No. 136], are overruled. Judge Goodman's order, [ECF No. 133], is affirmed. DONE AND ORDERED in Chambers at Miami, Florida, this 16th day of March, 2026. Cf
UNITED STATES DIST JUDGE