

**U.S. District Court
Southern District of Ohio (Cincinnati)
CIVIL DOCKET FOR CASE #: 1:08-cv-00539-SSB-TSH**

McGee v. Fifth Third Bancorp et al

Date Filed: Aug. 12, 2008
Status: Open
Nature of suit: 850 Securities/Commodities
Assigned to: [Chief Judge Sandra S Beckwith](#)
Cause: 28:1331 Fed. Question: Securities Violation
Jurisdiction: Federal Question
Jury demand: Plaintiff
Referred to: Magistrate Judge Timothy S Hogan
Related cases: 1:08-cv-00616-SSB-TSH

Parties and Attorneys

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Docket Proceedings[Reverse Proceedings](#)

Req #	Filed	#	Docket Text
1	Aug. 12, 2008	1	COMPLAINT with JURY DEMAND against all defendants, filed by Sam McGee. (Attachments: # 1 Exhibit, # 2 Civil Cover Sheet, # 3 Filing Fee Receipt) (scot1,) (Entered: 08/12/2008)
2	Aug. 12, 2008		Filing fee: \$ 350.00, receipt number 002767 (scot1,) (Entered: 08/12/2008)
3	Aug. 12, 2008		***If this case is referred, it will be to Magistrate Judge Timothy S. Hogan. (scot1,) (Entered: 08/13/2008)
4	Aug. 13, 2008	2	ORDER OF RECUSAL by Judge Susan J. Dlott. Judge Susan J. Dlott recused. Case reassigned to Judge Herman J. Weber for all further proceedings. (scot1,) (Entered: 08/13/2008)
5	Aug. 14, 2008	3	ORDER REASSIGNING CASE. Case referred to the Clerk of Courts for reassignment for all further proceedings. Judge Herman J. Weber no longer assigned to case. Signed by Judge Herman J. Weber on 8/14/08. (Case reassigned to Judge S Arthur Spiegel) (do,) (Entered: 08/14/2008)
6	Aug. 14, 2008	4	ORDER REASSIGNING CASE. Case transferred to the Clerk of the U.S. District Court for reassignment. Judge S Arthur Spiegel no longer assigned to case (reassigned to Judge Michael R Barrett). Signed by Judge S Arthur Spiegel on 8/14/2008. (km1,) (Entered: 08/14/2008)
7	Aug. 14, 2008	5	ORDER REASSIGNING CASE. Case reassigned to the Clerk's Office for reassignment. Chief Judge Sandra S Beckwith reassigned for all further proceedings. Judge Michael R. Barrett no longer assigned to case. Signed by Judge Michael R. Barrett on 8/14/2008. (ba1,) (Entered: 08/14/2008)
8	Aug. 15, 2008		Magistrate Judge Timothy S Hogan added. (mtw1,) (Entered: 08/15/2008)
9	Aug. 15, 2008	6	GENERAL ORDER REFERRING CASE to Magistrate Judge Timothy S. Hogan. Signed by Judge Sandra S. Beckwith. (mtw1) (Entered: 08/15/2008)
10	Aug. 19, 2008	7	MOTION to Consolidate Cases 08-cv-487; 08-cv-421 by Plaintiff Sam McGee. (Attachments: # 1 Memorandum of Law, # 2 Text of Proposed Order Proposed Order) (Brown, Phyllis) (Entered: 08/19/2008)
11	Aug. 19, 2008	8	DECLARATION OF PHYLLIS BROWN re 7 MOTION to Consolidate Cases 08-cv-487; 08-cv-421 by Plaintiff Sam McGee. (Attachments: # 1 Exhibit Exhibit A, # 2 Exhibit Exhibit B, # 3 Exhibit Exhibit C) (Brown, Phyllis) Modified docket text on 8/20/2008 (eh1,). (Entered: 08/19/2008)
12	Aug. 19, 2008	9	EXHIBIT D re 8 DECLARATION OF PHYLLIS BROWN re 7 MOTION to Consolidate Cases by Plaintiff Sam McGee. (Brown, Phyllis) Modified docket text on 8/20/2008 (eh1,). (Entered: 08/19/2008)
13	Aug. 19, 2008	10	EXHIBITS E-F re 8 DECLARATION OF PHYLLIS BROWN re 7 MOTION to Consolidate Cases by Plaintiff Sam McGee. (Attachments: # 1 Exhibit Exhibit F) (Brown, Phyllis) Modified docket text on 8/20/2008 (eh1,). (Entered: 08/19/2008)
14	Aug. 19, 2008	11	MOTION to Consolidate Cases , Appointment as Lead Plaintiff and for

Req #	Filed	#	Docket Text
			Approval of Lead Plaintiffs Selection of Lead Counsel and Memorandum in Support. (Flynn, William) (Entered: 08/19/2008)
15	Aug. 19, 2008	12	DECLARATION OF RICHARD S. WAYNE re 11 MOTION to Consolidate Cases , Appointment as Lead Plaintiff and for Approval of Lead Plaintiffs Selection of Lead Counsel and Memorandum in Support by Plaintiff The Eshe Fund. (Attachments: # 1 Exhibit Exhibit A - Sworn Certifications of Arnold R. Barnett; Albert L. Coburn; Phil Lucas; Laura Lucas; Jeremy Tal; Harry H. Steiner on Behalf of The Eshe Fund; Leon H. Loewenstine; Joel Pogolowitz POA, attorney-in-fact for Bill Schustik; and Eugenia Gray, # 2 Exhibit Exhibit B - Investor purchase and loss calculation prepared by proposed lead counsel, # 3 Exhibit Exhibit C - Copies of two notices of class action lawsuit filed against Fifth Third Bancorp, et al. published by Business Wire, a national business-oriented wire service, on June 20, 2008, # 4 Errata Exhibit D - A law firm resum of Strauss & Troy, # 5 Exhibit Exhibit E - A law firm resum of Wolf Haldenstein Adler Freeman & Herz LLP, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit Exhibit F - A law firm resum of The Brualdi Firm P.C) (Flynn, William) Modified docket text on 8/20/2008 (eh1,). (Entered: 08/19/2008)
16	Aug. 19, 2008	13	DECLARATION OF HENRY STEINER re 11 MOTION to Consolidate Cases , Appointment as Lead Plaintiff and for Approval of Lead Plaintiffs Selection of Lead Counsel and Memorandum in Support by Plaintiff The Eshe Fund. (Flynn, William) Modified docket text on 8/20/2008 (eh1,). (Entered: 08/19/2008)
17	Sep. 03, 2008	14	Unopposed MOTION for Extension of Time New date requested 11/3/2008. On Behlaf of All Defendants Within Which to Answer, Plead or Otherwise Move by Defendants Fifth Third Bancorp, Kevin T. Kabat, Christopher G. Marshall, George A. Schaefer, Jr. (Attachments: # 1 Text of Proposed Order) (Burke, James) (Entered: 09/03/2008)
18	Sep. 05, 2008	15	ORDER granting defendants' unopposed 14 Motion for Extension of Time up to and including (60) days within which to answer, plead or otherwise move in response thereto after a decision by the Court on consolidation; the appointment of a lead plaintiff and lead counsel; and service of plaintiffs' amended consolidated complaint. Signed by Magistrate Judge Timothy S Hogan on 9/4/2008. (art,) (Entered: 09/05/2008)
19	Sep. 09, 2008	16	[FORMER DOC. 16] MOTION to Appoint Counsel Memorandum of Law in further support of motion for appointment as lead plaintiff and for approval of selection of lead counsel and liaison counsel, and in opposition to competing motions for appointment of lead plaintiff by Plaintiff Sam McGee. (Brown, Phyllis) Modified to remove the pdf on 9/10/2008 (eh1,). (Entered: 09/09/2008)
20	Sep. 09, 2008	17	RESPONSE in Support re 7 MOTION to Consolidate Cases 08-cv-487; 08-cv-421 filed by Plaintiff The Eshe Fund. (Flynn, William) (Entered: 09/09/2008)
21	Sep. 10, 2008	18	REPLY to Response to Motion re 7 MOTION to Consolidate Cases 08-cv-487; 08-cv-421 Plaintiff Edwin B. Shelton's Memorandum of Law in Further Support of Motion for Appointment as Lead Plaintiff and for Approval of Selection of Lead Counsel and Liaison Counsel, and in Opposition to Competing Motions for Appointment of Lead Plaintiff filed by Plaintiff Sam McGee. (Brown, Phyllis) (Entered: 09/10/2008)

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22	Sep. 10, 2008		Notice of Correction re: [FORMER DOC. 16] MOTION to Appoint Counsel removed from the docket because it was actually a Response in Opposition to 11 MOTION to Consolidate Cases and a Reply to Response to Motion re 7 MOTION to Consolidate Cases 08-cv-487; 08-cv-421. Counsel contacted and will refile document twice as appropriate. (eh1,) (Entered: 09/10/2008)
23	Sep. 10, 2008	19	RESPONSE in Opposition re 11 MOTION to Consolidate Cases , Appointment as Lead Plaintiff and for Approval of Lead Plaintiffs Selection of Lead Counsel and Memorandum in Support Plaintiff Edwin B. Shelton's Memorandum of Law in Further Support of Motion for Appointment as Lead Plaintiff and for Approval of Selection of Lead Counsel and Liaison Counsel, and in Opposition to Competing Motions for Appointment of Lead Plaintiff filed by Plaintiff Sam McGee. (Brown, Phyllis) (Entered: 09/10/2008)
24	Sep. 12, 2008	20	RESPONSE to Motion re 7 MOTION to Consolidate Cases 08-cv-487; 08-cv-421, 11 MOTION to Consolidate Cases , Appointment as Lead Plaintiff and for Approval of Lead Plaintiffs Selection of Lead Counsel and Memorandum in Support filed by Defendants Fifth Third Bancorp, Kevin T. Kabat, Christopher G. Marshall, George A. Schaefer, Jr. (Attachments: # 1 Exhibit A) (Burke, James) (Entered: 09/12/2008)
25	Sep. 19, 2008	21	NOTICE of Appearance by James Eugene Burke Defendants Fifth Third Bancorp, Kevin T. Kabat, Christopher G. Marshall, George A. Schaefer, Jr (Burke, James) (Entered: 09/19/2008)
26	Sep. 19, 2008	22	NOTICE of Appearance by Joseph M Callow, Jr Defendants Fifth Third Bancorp, Kevin T. Kabat, Christopher G. Marshall, George A. Schaefer, Jr, Daniel T Poston (Callow, Joseph) (Entered: 09/19/2008)
27	Sep. 19, 2008	23	NOTICE of Appearance by Danielle Marie D'Addesa Defendants Fifth Third Bancorp, Kevin T. Kabat, Christopher G. Marshall, George A. Schaefer, Jr, Daniel T Poston (D'Addesa, Danielle) (Entered: 09/19/2008)
28	Sep. 19, 2008	24	NOTICE of Appearance by Jennifer J Morales Defendants Fifth Third Bancorp, Kevin T. Kabat, Christopher G. Marshall, George A. Schaefer, Jr, Daniel T Poston (Morales, Jennifer) (Entered: 09/19/2008)
29	Sep. 26, 2008	25	Reply to RESPONSE to Motion re 11 MOTION to Consolidate Cases , Appointment as Lead Plaintiff and for Approval of Lead Plaintiffs Selection of Lead Counsel and Memorandum in Support filed by Plaintiff The Eshe Fund. (Attachments: # 1 Appendix Appendix 1 Municipal Mortgage & Equity, LLC Securities and Derivative Litigation Memorandum and Order entered 8/29/08, # 2 Affidavit Reply Declaration of Robert B. Weintraub, Esq. in Support of The Eshe Fund Groups Motion for Appointment as Lead Plaintiff or, in the Alternative, the Appointment of The Eshe Fund Together With Leon H. Loewenstine as Co-Lead Plaintiffs for the Preferred B, # 3 Exhibit Weintraub Declaration Exhibit 1 - EBS Compilation, # 4 Exhibit Weintraub Declaration Exhibit 2 - Internet Research, # 5 Exhibit Weintraub Declaration Exhibit 3 - Shelco filings, # 6 Exhibit Reply Declaration of The Eshe Fund by Henry H. Steiner in Support of The Eshe Fund Groups Motion for Consolidation, Appointment as Lead Plaintiff, or in the Alternative Appointment as Lead Plaintiff for the Preferred B and Preferred C Securities, and Appr, # 7 Exhibit Reply Declaration By Albert L. Coburn in Support of The Eshe Fund Groups Motion for Consolidation, Appointment as Lead Plaintiff and Approval of Lead Plaintiffs Selection of Lead Counsel, # 8 Exhibit Reply Declaration of Leon Loewenstine in Support of The Eshe Fund

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			Groups Motion for Consolidation, Appointment as Lead Plaintiff and Approval of Lead Plaintiffs Selection of Lead Counsel, # 9 Exhibit Reply Declaration of Arnold R. Barnett in Support of The Eshe Fund Groups Motion for Consolidation, Appointment as Lead Plaintiff and Approval of Lead Plaintiffs Selection of Lead Counsel, # 10 Exhibit Declaration of Eugenia Gray in Support of The Eshe Fund Groups Motion for Appointment as Lead Plaintiff or, in the Alternative, the Appointment of The Eshe Fund Together With Leon H. Loewenstine, as Co-Lead Plaintiffs for the Preferred B and Preferred C S) (Wayne, Richard) Modified docket text on 9/29/2008 (eh1,). (Entered: 09/26/2008)
30	Sep. 26, 2008	26	REPLY to Response to Motion re 11 MOTION to Consolidate Cases , Appointment as Lead Plaintiff and for Approval of Lead Plaintiffs Selection of Lead Counsel and Memorandum in Support filed by Plaintiff The Eshe Fund. (Attachments: # 1 Exhibit The Institutional Investor Group's Notice of Withdrawal without Prejudice of Its Motion for Consolidation, Appointment as Lead Plaintiff and Approval of Selection of Counsel, # 2 Exhibit Joint Declaration of Edwin B. Shelton and the Pension Trust Funds in Support of Their Reply Brief to the Eshe Fund Group's Motion for Appointment as Lead Plaintiff, # 3 Exhibit Heller v. Walton - Order, # 4 Exhibit [Proposed] Order Consolidating the Related Actions, Appointing Mr. Shelton and the Pension Trust Funds as Co-Lead Plaintiffs and Approving Selection of Co-Lead Counsel) (Brown, Phyllis) (Entered: 09/26/2008)
31	Oct. 01, 2008		Motions Not Referred to Magistrate Judge: 7 MOTION to Consolidate Cases, 11 MOTION to Consolidate Cases, Appointment as Lead Plaintiff and for Approval of Lead Plaintiffs Selection of Lead Counsel. (art,) (Entered: 10/01/2008)