

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MATTHEW T. SHAFER, SHERI
HAUGABOOK, PETER HEIDT, JEFFREY
SHOVER, MACE TAMSE, GEORGE
LIVANOS, MARK LOFTUS, JEFFREY
SAMSEN, JEFFREY SHERESKY, STEVE
SHERESKY, STEVE NADLER, AND SANDY
JUKEL, ON BEHALF OF THEMSELVES AND
ALL OTHERS SIMILARLY SITUATED,

Plaintiffs,

-against-

MORGAN STANLEY, MORGAN STANLEY
SMITH BARNEY LLC, MORGAN STANLEY
COMPENSATION MANAGEMENT
DEVELOPMENT AND SUCCESSION
COMMITTEE, and John/Jane Does 1-20,

Defendants.

Civil Action No. 1:20-cv-11047-PGG

**DECLARATION OF MEAGHAN VERGOW IN SUPPORT OF DEFENDANTS'
MOTION FOR RECONSIDERATION OR CLARIFICATION**

I, Meaghan VerGow, declare and state as follows:

1. I submit this declaration in support of defendants' motion for reconsideration or clarification, ECF No. 87, in the above-captioned matter.
2. The statements in this declaration are based on my own personal knowledge, and if called as a witness, I would testify to the statements herein.
3. I am a partner of the law firm O'Melveny & Myers LLP.
4. I represent defendants ("Morgan Stanley") in the above-captioned matter, which concerns claims that Morgan Stanley's deferred compensation awards for financial advisors are governed by the Employee Retirement Income Security Act of 1974 (ERISA).

5. Morgan Stanley has defended or is defending similar claims in over twenty Financial Industry Regulatory Authority (FINRA) arbitrations.

6. In the first of these arbitrations, *Morgan Stanley v. Souma*, FINRA Case No. 20-03838, the panel denied all claims against Morgan Stanley in their entirety.

7. Attached hereto as Exhibit A is a true and correct copy of the *Souma* award, dated March 8, 2023.

8. In the second, *McCullough v. Morgan Stanley*, FINRA Case No. 21-02258, the panel again denied all claims against Morgan Stanley in their entirety, in a September 2023 award. *See* ECF No. 85-1.

9. The third in the series of FINRA arbitrations involving similar ERISA claims against Morgan Stanley, *Serrano v. Morgan Stanley*, FINRA Case No. 22-02150, proceeded to a hearing in February 2024.

10. Attached hereto as Exhibit B is a true and correct copy of relevant excerpts from the transcript of the first day of the *Serrano* hearing, dated February 26, 2024.

11. Attached hereto as Exhibit C is a true and correct copy of relevant excerpts from the transcript of the second day of the *Serrano* hearing, dated February 27, 2024.

12. Attached hereto as Exhibit D is a true and correct copy of relevant excerpts from the transcript of the third day of the *Serrano* hearing, dated February 28, 2024.

13. Attached hereto as Exhibit E is a true and correct copy of relevant excerpts from the transcript of the fourth and final day of the *Serrano* hearing, dated February 29, 2024.

14. Several weeks after the *Serrano* hearing, the panel issued a decision for the claimants, awarding them all requested damages, plus interest and attorneys' fees.

15. Attached hereto as Exhibit F is a true and correct copy of the *Serrano* award, dated March 22, 2024.

16. I am representing Morgan Stanley three upcoming FINRA arbitrations this April and May, all concerning claims that Morgan Stanley's deferred compensation programs are governed by ERISA.

17. The prehearing brief in the first of these three arbitrations, *Deblasio v. Morgan Stanley*, FINRA Case No. 22-02187, is due on April 9, 2024.

18. The *Deblasio* hearing is scheduled to begin on April 29, 2024.

19. In addition to the FINRA arbitrations discussed above, I am representing Morgan Stanley in more than a dozen other FINRA arbitrations concerning similar claims that ERISA governs Morgan Stanley's deferred compensation programs.

20. I understand that counsel for plaintiffs in this litigation have created a website, self-described as "an Attorney Advertisement" for their respective firms, soliciting prospective clients to assert additional claims against Morgan Stanley. That website states, among other things: "We obtained a ruling from a federal court in NY concluding that the Morgan Stanley deferred compensation plan is governed by the Employee Retirement Income Security Act, a federal law with strict anti-forfeiture rules." See *Former Financial Advisors at Morgan Stanley*, <https://www.morganstanleycompensation.com> (last visited Apr. 2, 2024).

21. A true and correct copy of a printout of that website, as of April 2, 2024, is attached as Exhibit G. A permanently archived copy of that website is also available at <https://perma.cc/8CMW-QPH4>.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 2nd day of April, 2024, in Washington, D.C.

/s/ Meaghan VerGow
Meaghan VerGow