

Axos Fin., Inc. v Reception Purchaser, LLC

2025 NY Slip Op 34458(U)

November 20, 2025

Supreme Court, New York County

Docket Number: Index No. 650108/2025

Judge: Anar Rathod Patel

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 45

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AXOS FINANCIAL, INC., SIEMENS FINANCIAL
SERVICES, INC.,

Plaintiffs,

- v -

RECEPTION PURCHASER, LLC, PRECEPTION
MEZZANINE HOLDINGS, LLC, STG
DISTRIBUTION, LLC, STG DISTRIBUTION
HOLDINGS, LLC, ANTARES CAPITAL LP,
ANTARES ASSETCO LP, ANTARES CREDIT
OPPORTUNITIES VI LLC, ANTARES CREDIT
OPPORTUNITIES FUNDING VI LLC, ANTARES
CREDIT OPPORTUNITIES MA II LP, ANTARES
CREDIT OPPORTUNITIES CA LLC, ANTARES
CREDIT OPPORTUNITIES CA SPV III LLC,
ANTARES CREDIT FUND II LP, ANTARES
STRATEGIC CREDIT I MASTER LP, ANTARES
STRATEGIC CREDIT I SPV LLC, ANTARES
SENIOR LOAN EF MASTER II (CAYMAN) LP,
ANTARES SENIOR LOAN EF II SPV LLC,
ANTARES SENIOR LOAN MASTER FUND II LP,
ANTARES SENIOR LOAN PARALLEL FUND II
SPV LLC, ANTARES SENIOR LOAN PARALLEL
MASTER FUND II LP, ANTARES CREDIT FUND I
LP, ANTARES HOLDINGS LP, ALCOF III NUBT,
L.P., AUDAX SENIOR DEBT (WCTPT) SPV II,
LLC, AUDAX SENIOR LOAN FUND I
(OFFSHORE) SPV II, LTD., AUDAX SENIOR
DEBT CLO 4, LLC, AUDAX SENIOR DEBT CLO
6, LLC, AUDAX CREDIT OPPORTUNITIES (SBA)
SPV, LLC, AUDAX SENIOR LOAN FUND V, L.P.,
AUDAX SENIOR DEBT CLO 8, LLC, AUDAX
SENIOR DEBT CLO 9, LLC, AUDAX CREDIT
BDC INC., THORNEY ISLAND LIMITED
PARTNERSHIP, KNIGHTS OF COLUMBUS
PRIVATE CREDIT FUND, LP, AUDAX SENIOR
LOAN IDF FUND-E SPV II, LLC, AUDAX SD-A
SPV, L.P., AUDAX SENIOR DEBT (PT), LLC,
BALLYROCK CLO 20 LTD., BALLYROCK CLO
2018-1 LTD., BALLYROCK CLO 2020-2 LTD.,

INDEX NO. 650108/2025

**MOTION
DATE** 09/09/2025

**MOTION SEQ.
NO.** 008

**DECISION + ORDER ON
MOTION**

AUDAX SENIOR DEBT CLO 7, LLC,
BALLYROCK CLO 14 LTD., BALLYROCK CLO
15 LTD., BALLYROCK CLO 16 LTD.,
BALLYROCK CLO 17 LTD., BALLYROCK CLO
19 LTD., BALLYROCK CLO 2019-2 LTD.,
BALLYROCK CLO 18 LTD., BALLYROCK CLO
2019-1 LTD., IOF II ONSHORE FIRST LIEN, LLC,
IOF II OFFSHORE FIRST LIEN, LLC,
DRAWBRIDGE SPECIAL OPPORTUNITIES
FUND LTD, FORTRESS CREDIT BSL XVI
LIMITED, FORTRESS CREDIT BSL XIX
LIMITED, FORTRESS CREDIT BSL XV LIMITED,
FORTRESS CREDIT BSL IX LIMITED,
FORTRESS CREDIT BSL III LIMITED,
FORTRESS CREDIT BSL VI LIMITED,
FORTRESS CREDIT BSL VII LIMITED,
FORTRESS CREDIT BSL VIII LIMITED,
FORTRESS CREDIT BSL X LIMITED, FORTRESS
CREDIT BSL XI LIMITED, FORTRESS CREDIT
BSL XII LIMITED, FORTRESS CREDIT BSL XIII
LIMITED, FORTRESS CREDIT BSL XIV
LIMITED, FORTRESS CREDIT BSL XVII
LIMITED, FORTRESS CREDIT BSL XVIII
LIMITED, FORTRESS CREDIT OPPORTUNITIES
IX CLO LIMITED, FORTRESS CREDIT
OPPORTUNITIES XI CLO LIMITED, FORTRESS
CREDIT OPPORTUNITIES XIX CLO LLC,
FORTRESS CREDIT OPPORTUNITIES XV CLO
LIMITED, FORTRESS CREDIT OPPORTUNITIES
XXI CLO LLC, FORTRESS CREDIT
OPPORTUNITIES VIII CLO LLC, FDF III
LIMITED, FDF IV LIMITED, FDF V LIMITED,
FLF III-IV MA-CRPTF HOLDINGS FINANCE L.P.,
FLF III AB HOLDINGS FINANCE L.P., FLF III
BAM HOLDINGS FINANCE L.P., FIDELITY
CENTRAL INVESTMENT PORTFOLIOS LLC,
FIDELITY FLOATING RATE CENTRAL FUND,
FIDELITY INCOME FUND, FIDELITY ADVISOR
SERIES, FIDELITY SALEM STREET TRUST,
VARIABLE INSURANCE PRODUCTS FUND,
FIDELITY MERRIMACK STREET TRUST,
FIDELITY PRIVATE CREDIT FUND, JNL/PPM
AMERICA FLOATING RATE INCOME FUND,
FIAM LEVERAGED LOAN LP, JNL/FIDELITY
INSTITUTIONAL ASSET MANAGEMENT TOTAL
BOND FUND, FIAM FLOATING RATE HIGH

INCOME COMMINGLED POOL, FIDELITY
INFLATION-FOCUSED FUND, FIDELITY
FLOATING RATE HIGH INCOME MULTI-ASSET
BASE FUND, FIDELITY FLOATING RATE HIGH
INCOME FUND, FIDELITY DIRECT LENDING
FUND I JSPV LLC, BLUE EAGLE 2022-1B, LLC,
BLUE EAGLE 2022- 1C, LLC, HARBOURVIEW
CLO VII-R, LTD., INVESCO CREDIT PARTNERS
MASTER FUND III, LP, INVESCO SAKURA US
SENIOR SECURED FUND, INVESCO SSL FUND
LLC, INVESCO ZODIAC FUNDS - INVESCO
EUROPEAN SENIOR LOAN ESG FUND,
INVESCO ZODIAC FUNDS - INVESCO
EUROPEAN SENIOR LOAN FUND, INVESCO
ZODIAC FUNDS - INVESCO US SENIOR LOAN
ESG FUND, INVESCO ZODIAC FUNDS -
INVESCO US SENIOR LOAN FUND, INVESCO
DYNAMIC CREDIT OPPORTUNITY, INVESCO
FLOATING RATE ESG FUND, INVESCO
FLOATING RATE INCOME FUND, INVESCO
SENIOR FLOATING RATE FUND, INVESCO CLO
2022-1, LTD., INVESCO CLO 2022-2, LTD.,
INVESCO CLO 2022-3, LTD., INVESCO U.S. CLO
2024-1, LTD., INVESCO U.S. CLO 2021-2, LTD.,
INVESCO CLO 2021-3, LTD., ANNISA CLO, LTD.,
BARDOT CLO, LTD., BETONY CLO 2, LTD.,
MILOS CLO, LTD., RISERVA CLO LTD., VERDE
CLO, LTD., ALINEA CLO, LTD., INVESCO CLO
2021- 1, LTD., RECETTE CLO, LTD., UPLAND
CLO, LTD., INVESCO CREDIT PARTNERS
OPPORTUNITIES FUND 2023, L.P., INVESCO
PEAK NINE, L.P., DIVERSIFIED CREDIT
PORTFOLIO LTD., SENTRY INSURANCE
COMPANY, INVESCO TETON FUND LLC, ISQ
INFRASTRUCTURE CREDIT FUND U.S.
POOLING II, L.P., PA SENIOR CREDIT
OPPORTUNITIES FUND, L.P. (ON BEHALF OF
ITS UNLEVERED SERIES), PENNANTPARK
INVESTMENT CORPORATION PENNANTPARK
CREDIT OPPORTUNITIES FUND IV
AGGREGATOR, LP, PENNANTPARK CLO III,
LTD, PENNANTPARK CLO V, LLC,
PENNANTPARK CLO VII, LLC, PENNANTPARK
CLO VI, LLC, PRUDENTIAL HONG KONG
LIMITED, JNL/PPM AMERICA FLOATING RATE
INCOME FUND, A SERIES OF THE JNL SERIES

TRUST, BLUEMOUNTAIN CLO 2014-2 LTD.,
 BLUEMOUNTAIN CLO 2015- 3 LTD.,
 BLUEMOUNTAIN CLO 2015-4 LTD.,
 BLUEMOUNTAIN CLO 2016-2 LTD.,
 BLUEMOUNTAIN CLO 2016-3 LTD.,
 BLUEMOUNTAIN CLO 2018-1 LTD.,
 BLUEMOUNTAIN CLO 2018-2 LTD.,
 BLUEMOUNTAIN CLO 2018-3 LTD.,
 BLUEMOUNTAIN CLO XXII LTD.,
 BLUEMOUNTAIN CLO XXIII LTD.,
 BLUEMOUNTAIN CLO XXIV LTD.,
 BLUEMOUNTAIN CLO XXIX LTD.,
 BLUEMOUNTAIN CLO XXV LTD.,
 BLUEMOUNTAIN CLO XXVI LTD.,
 BLUEMOUNTAIN CLO XXVIII LTD.,
 BLUEMOUNTAIN CLO XXX LTD.,
 BLUEMOUNTAIN CLO XXXI LTD.,
 BLUEMOUNTAIN CLO XXXII LTD.,
 BLUEMOUNTAIN CLO XXXIII LTD.,
 BLUEMOUNTAIN CLO XXXIV LTD.,
 BLUEMOUNTAIN CLO XXXV LTD.,
 BLUEMOUNTAIN FUJI US CLO I LTD.,
 BLUEMOUNTAIN FUJI US CLO II LTD.,
 BLUEMOUNTAIN FUJI US CLO III LTD., PA
 SENIOR CREDIT FUNDING SPV, LLC,
 PROSPECT CAPITAL CORPORATION, CITIZENS
 BANK, NATIONAL ASSOCIATION, DEUTSCHE
 BANK AG, LONDON BRANCH, DEUTSCHE
 BANK AG, NEW YORK BRANCH,

Defendants.

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HON. ANAR RATHOD PATEL:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 201–224, were read on this motion to/for MISCELLANEOUS (COMPEL PRODUCTION).

Relevant Factual and Procedural Background

Plaintiffs Axos Financial, Inc. and Siemens Financial Services, Inc. (collectively, “Axos”) brought this action against numerous Defendants¹ pursuant to a series of loans and transactions between and among the parties. *See* NYSCEF Doc. No. 14 (Am. Compl.). Plaintiffs, as lenders participated in a first-lien syndicated loan for Defendants Reception Purchaser LLC, Reception

¹ *See* NYSCEF Doc. No. 14 at 5–7 (Am. Compl.) for complete list of Defendants.
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Mezzanine Holdings LLC, STG Distribution LLC, and STG Distribution Holdings (collectively, “STG”) pursuant to a March 24, 2022 Credit Agreement (the “Credit Agreement”). *Id.* at ¶¶ 5–6. Defendant Antares Capital LP (“Antares”) was the Administrative Agent, and other Antares entities held STG loans (“Antares Lenders”) (collectively “Antares Entities”). *Id.* at ¶¶ 26–27.

On or about October 3, 2024, STG engaged in a transaction pursuant to the Sixth Amendment of the Credit Agreement whereby STG issued a series of new loans (the “Transaction”). *Id.* at ¶¶ 5, 8, 92. Only a sub-set of existing lenders (“Preferred Lenders”) received offers to participate in the Transaction. *Id.* at ¶¶ 92–93, 95. Plaintiffs allege that they, and certain of the Defendants, were instead invited to exchange their existing loans for new subordinated STG loans in a second tranche offering. *Id.* at ¶ 100. Plaintiffs allege that this series of transactions and events undertaken by Defendants was part of a planned effort that violated existing lender protections (the “Scheme”). *Id.* at ¶ 8. Plaintiffs further allege that secret negotiations occurred in August 2024 involving Antares, STG, non-party equity sponsors, and select lenders to craft details necessary to execute the Scheme which, among other actions, involved the creation of STG subsidiaries and a subsequent transfer of valuable collateral and lines of business that no longer secured Plaintiffs’ loans. *Id.* at ¶¶ 10–11; NYSCEF Doc. No. 212 (Pl. Mem. of Law) at 14.

Defendants deny all allegations and argue that any actions taken by Defendants to effectuate the Transaction were lawful and executed pursuant to the governing Credit Agreement. *Id.* The Credit Agreement contains exculpations with respect to liability of Antares as Administrative Agent. NYSCEF Doc. No. 214 at 12 (Antares Opp’n). However, the exculpation clause is inapplicable if Plaintiffs identify “gross negligence of willful misconduct” on the part of Antares that is the “primary” source of the liability. *Id.*

In their Amended Complaint, Plaintiffs allege ten counts for breach of contract against Antares and STG, one count for breach of the implied covenant of good faith and fair dealing against Antares, STG, and Defendant Lenders, and violation of New York’s Uniform Voidable Transactions Act against STG and their newly formed subsidiaries. Plaintiffs additionally seek a declaratory judgment from this Court voiding the Sixth Amendment to the Credit Agreement. Am. Compl. ¶¶ 139–261.

On September 9, 2025, Plaintiffs filed the instant Motion to Compel the Antares Entities and the Discovery Lenders² to produce documents pursuant to Requests for Production (“RFP” or “RFPs”) sent by Plaintiffs to the respective parties. NYSCEF Doc. No. 201 (Pl. Mot. to Compel); *see also* NYSCEF Doc. No. 203 (RFP to Antares); NYSCEF Doc. No. 204 (RFP to Disc. Lenders). Plaintiffs request that this Court compel (1) production from Antares Entities responsive to Plaintiffs’ RFPs Nos. 2, 6, 19, 27–30, 32–33, and 40; and (2) production from Discovery Lenders to Plaintiffs’ RFPs Nos. 2 and 25–27. NYSCEF Doc. No. 212 (Pl. Mem. of Law). Generally, the requests seek internal loan valuation information from the Antares Entities and Discovery Lenders, STG financial information from the Antares Entities and Discovery Lenders, and compensation information from Antares received in connection with the Transaction.

² The Court adopts the definition of “Discovery Lenders” as set forth in NYSCEF Doc. No. 46 at 2 (Stipulation and Order as to Discovery).

The Antares Entities filed an Opposition to Plaintiffs' Motion on September 18, 2025. (Antares Opp'n). The Discovery Lenders filed an Opposition to Plaintiffs' Motion on September 18, 2025. NYSCEF Doc. No. 213 (Disc. Lenders Opp'n). Plaintiffs subsequently filed a Reply in Further Support of their Motion to Compel on September 24, 2025. NYSCEF Doc. No. 222 (Pl. Reply).

Plaintiffs' RFPs Issued to Antares Capital LP

As a threshold issue, Defendants Antares Lenders argue that Plaintiffs served their First Set of RFPs only upon "Antares Capital LP", and therefore, the RFPs do not apply to Antares Lenders. Antares Opp'n at n.1; *see also* Pl. RFP to Antares at 6. The RFP served by Plaintiffs upon Antares is titled "Plaintiffs' First Set of Requests For Production to Antares Capital LP." *See* Pl. RFP to Antares. Plaintiffs, in the RFP, "hereby demand[] that Defendant Antares Capital LP produce the documents and communications requested pursuant to these requests . . ." *Id.* at 7. The "Definitions" section states: "[t]he term 'Antares,' 'You,' and 'Your' mean Antares Capital LP, along with its predecessors, successors, and current or former owners, principals, directors, officers, control persons, members, partners, managers, employees, consultants, subsidiaries, affiliates (including Antares Holdings LP), agents, representatives, or Persons acting on its behalf." *Id.* at 7-8.

Plaintiffs argue that the RFP is applicable to Antares Capital LP *and* its affiliates. Pl. Reply at n.2. Plaintiffs additionally contend that counsel for Plaintiff and Antares previously discussed this issue during a meet-and-confer held on May 13, 2025. *Id.* During the meet-and-confer, Plaintiffs allege that counsel for the Antares Entities confirmed they would not withhold production of information concerning "Antares' role as a Defendant Lender." *Id.*

The language and requests in the individual RFPs clearly and unambiguously demonstrates that Plaintiffs intended to serve the RFP upon all Antares Entities because certain individual RFPs are inapplicable to Antares Capital LP, but applicable to the Antares Lenders. *See e.g.*, RFP 4 requesting "All Documents and Communications relating to Your decision to enter into the Original Agreements, including any concerns about entering such agreements."; and RFP 6 requesting "Documents sufficient to show Your holding of Loans issued under the Original Agreements, including any change in holding." RFP to Antares at 17. RFP language that references "holding of Loans" is inapplicable to Antares because they acted solely in the role of Administrative Agent and did not hold any loans. However, the Antares Lenders *did* hold STG loans and would be the only obvious recipient of some of Plaintiffs' RFPs. Given the broad definition of "Antares" in the RFP, and the content of specific RFPs that could only be directed towards Antares Lenders, this Court find that Plaintiffs' RFPs apply to both Antares and the Antares Lenders.

Legal Discussion

Discovery in civil actions requires "full disclosure of all matter material and necessary in the prosecution or defense of an action." CPLR § 3101(a). The Commercial Division Rules require that "costs and burdens of discovery . . . shall be proportionate to its benefits, considering the nature of the dispute, the amount in controversy, and the importance of the materials requested

to resolving the dispute.” 22 NYCRR § 202.70(11-c)(d). A court should consider “the availability of such information from other sources.” 22 NYCRR § 202.70, App. § VII(A). A party seeking discovery must demonstrate that “the request is reasonably calculated to yield information that is material and necessary—*i.e.* relevant.” *Forman v. Henkin*, 30 N.Y.3d 656, 661 (2018) (internal citations omitted). Therefore, a party must produce the requested documents if the “discovery sought will result in the disclosure of relevant evidence related to the parties’ claims or defenses. *SNI/SI Networks LLC v. DIRECTV LLC*, 132 A.D.3d 616, 617 (1st Dept. 2015). Additionally, parties “should not be compelled to repeatedly provide through discovery material plaintiff already possesses or which has already been provided.” *Whalen v. Villegas*, 40 Misc. 3d. 310, 322 (Sup. Ct. Nassau Cnty April 1, 2013).

Internal Loan Valuations (RFP 2 to Antares Entities and Discovery Lenders)

Plaintiffs allege in their Amended Complaint that, as lenders, they received unfavorable treatment by Defendants in violation of certain lender rights within the Credit Agreement as a direct result of the “Scheme.” Am. Compl. at ¶¶ 139–154; *see also* Pl. Mem. of Law at 4. Plaintiffs argue that they are entitled to discovery that may show (1) adverse impacts on Plaintiffs’ loan holdings resulting from the Scheme; (2) violations of their sacred rights pursuant to the Credit Agreement; and (3) removal of Plaintiffs’ lender rights after the unlawful amendment to the Credit Agreement. Pl. Mem. of Law at 10–11. Plaintiffs also argue that discovery may reveal documents and communications concerning damages, generally, and the quantum of harm, specifically, from the “Scheme.” Pl. Mem. of Law at 10–13. This includes, *inter alia*, Defendants’ internal valuation of various tranches of post-Transaction loans, reduced liquidity of Plaintiff’s loans, and diminished lender rights. *Id.*

Plaintiffs argue that these productions may also assist in proving harm specifically caused by the reduced value and illiquidity of their inferior loans. *Id.*; *see also DIRECTV*, 132 A.D.3d at 617. Therefore, Plaintiffs assert that RFP 2, which seeks “Document[s] and Communications concerning the value or price of the term loans and revolver loans issued under the [credit agreements at issue in this case], including but not limited to trading prices, internal valuations, and expected recoveries on those loans” is directly relevant to asserted claims and defenses in this action, including whether Plaintiffs were directly and adversely impacted by the Scheme. Pl. RFPs to Antares at 17; *see also* Pl. RFPs to Disc. Lenders at 12; *see also* Am. Compl. at ¶¶ 15, 104–19.

Discovery Lenders claim RFP 2 requests production of their proprietary loan valuations, risk management strategies, unrelated positions in the syndicated loan market, and business strategies in an action involving their direct competitors. NYSCEF Doc. No. 213 at 21, n. 13 (Disc. Lenders Opp’n). They claim the requested information is irrelevant as to Plaintiffs’ claims that the Amendment to the Credit Agreement, and subsequent issuance of loans, caused them harm. Disc. Lenders Opp’n at 11. In support of their argument, Discovery Lenders claim Plaintiffs carry the burden of making a “strong showing that the information [requested] is indispensable to the claim and cannot be obtained from other sources” when seeking financial information “of a confidential nature.” *Saratoga Harness Racing, Inc. v. Roemer*, 274 A.D.2d 887, 889 (3d Dept. 2000); *see also Latture v. Smith*, 304 A.D.2d 534, 535–36 (court applied a higher standard when party sought certain confidential financial information). Discovery Lenders further claim that even if this Court finds loan valuation calculations are relevant, Plaintiffs could obtain the same

objective valuation information used by Discovery Lenders from other sources, and Plaintiff has already served STG with identical, or nearly identical, RFPs that will yield the requested information. Disc. Lenders Opp'n at 21.

Discovery Lenders question the relevance of information requested in RFP 2 regarding Plaintiffs' allegations that the adoption of the Amendment to the Credit Agreement violated their bargained-for lender rights that demands an analysis based on contractual breach, and not valuation. Disc. Lenders Opp'n at 12–13. Discovery Lenders argue that Plaintiffs' entitlement to their internal loan valuations and loan analysis must be denied because Plaintiffs plead in the Amended Complaint that their harm is the delta between the publicly-available market-price of the loans prior to the Transaction, compared with the publicly-available lower market-price of the loans after the Transaction; or, in the alternative, the market-price delta plus additional objective variables identified and valued through expert testimony. Pl. Mem. of Law at 5–6, 10; *see also* Disc. Lenders Opp'n at 12–13. Discovery Lenders argue that any damages resulting from a contractual violation of Plaintiffs' sacred rights is therefore firmly rooted in market data, and, if necessary, expert testimony because the loans are “in a free and actively traded market.” *Id.* at 15–16 (citing to *Seaboard World Airlines, Inc. v. Tiger Int'l, Inc.*, 600 F.2d 355, 361–62 (2d Cir. 2000)). Plaintiffs can access STG historical loan trading prices through public “financial platforms such as Bloomberg.” Disc. Lenders Opp'n at n.6.

Assuming, *arguendo*, additional expert testimony is required to assess damages, Discovery Lenders argue it will not be based on the irrelevant and subjective beliefs of Defendant Lenders. *See Matt. of Marvin Josephson Assoc. v. Raderia*, 52 A.D.2d 523, 524 (1st Dept. 1976) (“disparate values assigned to the shares by opposing parties warrant an appraisal, at which time expert testimony can be taken describing the basis for the values assigned”); *see also Schonfeld v. Hillard*, 218 F.3d 164, 178–79 (2d Cir. 2000) (a court may consider additional evidence in loan valuation such as expert “opinion[s] of the asset’s value; and evidence of sales of comparable assets . . .”).

Antares incorporates by reference all arguments made by Discovery Lenders and further states Plaintiffs will “receive every conceivable document related to the value of STG and its debt . . . from STG itself.” Antares Mem. of Law in Opp'n at 6, 14. Antares also acknowledges the existence of a stipulated protective order executed by all parties in this action, yet still argues that “production constitutes a threat to Antares’s business interests . . .” *Id.* at 13.

Plaintiffs dismiss all objections offered by Antares and Discovery Lenders. Plaintiffs contend the valuation information they seek cannot be obtained solely from STG. *Id.* at 6. Plaintiffs argue individual custodians for the Antares Entities and Discovery Lenders may possess information that STG will not have, including information obtained by third-parties, or memorialization of oral communications with STG. *Id.* Plaintiffs also dismiss concerns with respect to confidential information exchanged between parties during discovery, and claims this concern is addressed by the protective order. *See* NYSCEF Doc. No. 36 (Stipulation and Order for the Production and Exchange of Confidential Information)); *see also Singh v. PGA Tour, Inc.*, No. 651659/2013, 2014 WL 2650078, at *2 (Sup. Ct. N.Y. Cnty June 12, 2014) (requiring production of information that is “highly sensitive” and “confidential” where parties executed a confidentiality agreement). Plaintiffs also differentiate the facts in the instant case from the facts

in *Saratoga Harness Racing and Latture*, and correctly assert that those decisions apply a heightened standard for production *specifically to tax returns*, and not to other categories of confidential financial information as alleged by the Defendant Lenders. Pl. Reply at 7. Plaintiff is correct that confidential financial information, other than tax returns, is properly evaluated under the “material and necessary” standard pursuant to CPLR § 3101. *Day v. Serenity Pharms. LLC*, 213 A.D.3d 488, 488–90 (1st Dept. 2023) (court requires “strong showing of necessity” for production of tax returns but requires only “material and necessary” showing for disclosure of other confidential financial information).

Considering the posture of all parties, the Court denies Plaintiffs’ Motion to Compel production pursuant to RFP 2 from both the Antares Entities and the Discovery Lenders. Over one hundred entities are named as Defendants, and the Court is mindful of the collective burden of producing duplicative information. Most Defendants are alternative asset managers and directly compete with each other in the syndicated loan market to advise on or participate in the same deals with the same clients. Unlike some industries, the differentiation factors among these asset managers or advisors, and often their ultimate success, is based, in part, on models and other internally developed information-based tools deployed in their evaluation of loans and assets, and which is a driver in their risk analysis and business decisions.

Additionally, some of Plaintiffs’ allegations—if proven true—may require expert reports and testimony to determine damages in an inquest, pursuant to *Schonfeld*, to supplement publicly available market prices of the at-issue loans. The expert will use their own valuation method(s) in the analysis and adopt the same inputs that lenders received from STG to inform and direct their opinion(s). Plaintiffs’ arguments requiring the subjective valuations of each Defendant Lender and Antares Lender are therefore immaterial and irrelevant to expert testimony in this action.

Plaintiffs have also not established that the documents sought in RFP 2 are material and necessary to claims asserted in this action. As plead, each contractual breach count hinges on whether specific actions taken by the Defendants violated the operative Credit Agreement at the time of each action. Plaintiffs have not demonstrated they require internal loan valuations for this Court to determine the validity of each claim. Plaintiffs have already plead damages caused by the Transaction as indicated by their alleged loss in the trading value of their loan holdings on the secondary market.

Financial Condition of STG (RFPs 27–30, and 32–33 to Antares Entities and 25–27 to Discovery Lenders)

Plaintiffs claim the financial state of STG is directly relevant to allegations that Defendants violated their lender rights by unlawfully amending the Credit Agreement and subsequently issuing superior loans to the Preferred Lenders with respect to, *inter alia*, collateral protection, payment priority, and credit protection through the Scheme. Pl. Mem. of Law at 4–5. Plaintiffs seek documents and communications from the Antares Entities and the Discovery Lenders regarding the financial condition of STG during the lending relationship, and any alternative financing proposals or options available, other than engaging in the Transaction. Pl. Mem. of Law at 13. Plaintiffs claim these documents are relevant to their claims that the Scheme violated their rights as lenders by transferring collateral to STG subsidiaries outside the reach of Plaintiffs. *Id.*

at 14–15; *see* Am. Compl. ¶¶ 109–110, 123–24. Additionally, Plaintiffs claim that alternative financing proposals, other than the Transaction, are relevant to Plaintiffs’ claim that Antares, as Administrative Agent, demonstrated willful misconduct and/or gross negligence by ignoring other options lawfully permitted under the operative Credit Agreement. Pl. Mem. of Law at 15–16. If proven, actions taken by Antares prior to the Transaction could eliminate exculpation protections Antares would otherwise enjoy. *Id.*

As with the internal loan value information requested in RFP 2, Plaintiffs argue that the information requested in RFPs 25–27, 27–30, and 32–33 concerning the financial state of STG, its subsidiaries, its collateral, and its guarantors is “directly relevant to the risk and value of Plaintiffs’ Loans before and after the Scheme was executed.” Pl. Mem. of Law at 14. They claim this information “bears on the adverse effect of the Sixth Amended Agreement and Sixth Amendment Transactions on Plaintiffs’ Loans” and is relevant to “remedies for the harm” suffered by Plaintiffs. *Id.* at 14–15. Plaintiffs allege that during the Transaction, “all, or substantially all” of the collateral assets were removed to STG subsidiaries outside the reach of Plaintiffs, and other lenders. *Id.* at 15. New York law analyzes an “all or substantially all” claim through a complex lens that can involve both qualitative and quantitative factors, including whether the asset transfer “changed the nature or character of the entity’s business” and whether it occurred “in the normal and regular course of the entity’s business.” *HFTP Investments v. Grupo TMM, S.A.*, No. 602925/2003, 2004 WL 6541710, at *7 (Sup. Ct. N.Y. Cnty June 4, 2004). Plaintiffs claim that Antares Entities and the Discovery Lenders may have information that can provide data points relevant to an “all or substantially all” analysis. Pl. Mem. of Law at 15.

Plaintiffs also argue that information concerning alternative financing options should be compelled because it may bear on whether Antares’ actions rose to a level of willful misconduct and/or gross negligence that could remove exculpation protections. *Id.* at 16. Plaintiffs claim that, to the extent that alternative financing proposals exist, the choice of Defendants to execute the Transaction for the benefit of some lenders, while harming others, bears directly upon Plaintiff’s claim of breach of the implied covenant of good faith and fair dealing. *Id.*; *see also* Am. Compl. at ¶¶ 242–249.

Discovery Lenders rebut that the information requested in RFPs 25–27 is irrelevant to claims or remedies in this action. Disc. Lenders Opp’n at 17. The RFPs served upon the Discovery Lenders do not request information regarding alternative transactions, but do request financial information they possess regarding STG, including the assets of STG both before and after the Transaction. *Id.* at 8–9. Although Discovery Lenders agree with Plaintiffs that a “substantially all” claim involving the removal of assets and collateral from an obligor entity, as alleged here, requires a broad analysis, Discovery Lenders state that this information has appropriately been requested from STG, and requests to the numerous Discovery Lenders are duplicative. *Id.* at 18.

The Antares Entities again adopt all arguments made by Discovery Lenders and incorporate them into its briefing by reference. Antares Opp’n to Motion at 5–6, 13–14. Antares additionally argues that Plaintiffs’ allegations are insufficient to identify any non-exculpated act by Antares in its capacity as Administrative Agent. Antares claims that Plaintiffs lack “legally sufficient allegations that they could prove up with their desired discovery” and therefore, the request to compel production should be denied. *See US Pony Holdings LLC v. Fashion Footwear*

LLC, No. 655022/2022, 2004 WL 1375868, at *2 (Sup. Ct. N.Y. Cnty April 1, 2024) (denying motion to compel where there was no support that conduct fell outside the scope of a relevant exculpatory provision).

Plaintiffs, however, observe the dual role in the instant action of Antares as both Administrative Agent and lender, and the inherent conflicts that may arise thereto. Pl. Reply at 16–17. Discovery may lead to evidence of gross negligence or willful misconduct if Antares' actions as Administrative Agent intentionally benefitted the Antares Lenders while knowingly harming Plaintiffs. *Id.* Plaintiffs also differentiate *US Pony Holdings LLC* where plaintiffs' theory of bad-faith conduct was wholly speculative and irrelevant to any claims or defenses compared to the instant case that alleges misconduct on the part of Antares and relates to allegations and asserted defenses in the pleadings. Pl. Reply at n. 11.

Consistent with this Court's decision with respect to production pursuant to RFP 2, Plaintiffs have not established that the financial information requested from Discovery Lenders, or Antares Lenders has not already, or cannot be, obtained through RFPs previously served on Defendant STG. The Court therefore finds that RFPs 25–27 served on Discovery Lenders, or Antares Lenders, would yield duplicative information. *See Whalen*, 40 Misc. 3d at 322. As such, Plaintiff's Motion to Compel production pursuant to RFPs 25–27 from Discovery Lenders, and Plaintiff's Motion to Compel production pursuant to RFPs 27–30, and 32–33 from Antares Lenders is denied.

The Court does find that Plaintiffs are entitled to information from Antares, as Administrative Agent, as requested in RFPs 27–30 and 32–33. To attach liability to Antares, Plaintiff must prove that the general exculpation provision in the Credit Agreement is inapplicable due to gross negligence or willful misconduct by Antares. It is conceivable that Antares has relevant documents in their possession related to their exculpation defense. Therefore, Plaintiffs must be allowed to conduct discovery seeking evidence relevant to their claims of gross negligence or willful misconduct pursuant to *SNI/SI Networks LLC*. Antares, itself, chose to put their defense of exculpation at issue, and Plaintiffs therefore have the right to seek documents or communications that may show any intentional misconduct by Antares intended to harm Plaintiffs. Accordingly, Plaintiffs' Motion to Compel production from Antares Capital LP pursuant to RFPs 27–30, and 32–33 is granted.

Antares Loan Holdings and Compensation (RFPs 6, 19, and 40 to Antares)

To narrow the issues in this Motion before the Court, Antares “advised Plaintiffs that it will produce documents sufficient to satisfy Plaintiffs’ RFP Nos. 6 and 19”. Antares Opp’n to Motion to Compel at 18. The requested information relates specifically to Antares Loan Holdings pursuant to the initial loan agreement and any subsequent changes to the holdings during the lending relationship. *Id.* at 18. In their briefing, Antares confirmed they have no production to make in response to RFP No. 40 because Antares “received no ‘consideration’ in exchange for its role in any of the transactions at issue in the Complaint other than that reflected in the definitive transaction documents being produced by STG.” *Id.* at 18. As such, the Court denies Plaintiff's request for Antares to produce documents responsive to RFP Nos. 6, 19, and 40 as moot.

The Court has considered the parties' remaining contentions and finds them to be unavailing.

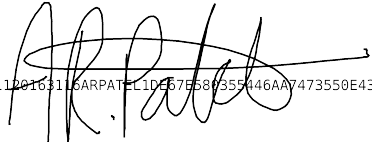
Upon the foregoing, it is hereby

ORDERED that Plaintiffs' Motion to Compel production from the Antares Entities and Discovery Lenders pursuant to RFP 2 is denied; and it is further

ORDERED that Plaintiff's Motion to Compel production from Discovery Lenders pursuant to RFPs 25–27 is denied; and it is further

ORDERED that Plaintiff's Motion to Compel production from Antares Capital LP pursuant to RFPs 6, 19, and 40 is denied as moot; and it is further

ORDERED that Plaintiffs' Motion to Compel production from Antares Capital LP pursuant to RFPs 27–30, and 32–33 is granted.


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ANAR RATHOD PATEL, A.J.S.C.

November 20, 2025
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input checked="" type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	REFERENCE