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Attorneys for The Bank of New York Mellon, as  
Trustee for the Certificate Holders of the CWALT,  
Inc., Alternative Loan Trust, 2006-40T1

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ARTHUR GREGORY LUNDEEN IV and  
AUDRA MARIE LUNDEEN,

Plaintiffs,

v.

THE BANK OF NEW YORK MELLON  
CORPORATION AKA THE BANK OF NEW  
YORK MELLON, FKA THE BANK OF NEW  
YORK, AS TRUSTEE FOR THE  
CERTIFICATE HOLDERS OF THE CWALT,  
INC., ALTERNATIVE LOAN TRUST 2006-  
40T1, MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2006-40T1; DOES I-  
X; and ROES 1-10, inclusive,

Defendants.

Case No.: 2:17-cv-01981-JAD-CWH

**MOTION TO EXTEND DISPOSITIVE  
MOTION AND JOINT PRETRIAL ORDER  
DEADLINE.**

**(FIRST REQUEST)**

Pursuant to LR IA 6-1, The Bank of New York Mellon, as Trustee for the Certificate Holders of the CWALT, Inc., Alternative Loan Trust, 2006-40T1 (**BoNYM**) moves to extend the dispositive motion deadline and the joint pre-trial order deadline by sixty (60) days. This is BoNYM's first request for an extension of the dispositive motion and joint pre-trial order deadlines.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Pursuant to the current scheduling order, ECF No. 19, the deadline to file dispositive motions  
3 is April 25, 2018. BoNYM requests this deadline be postponed by 60 days to allow it to consider a  
4 currently pending settlement offer. The parties orally agreed to postpone the deadlines, and intended  
5 to submit a stipulation to that effect. See Decl. of Jamie K. Combs, attached as Exhibit A. However,  
6 because undersigned counsel has not yet obtained written confirmation of Plaintiff's counsel to e-  
7 sign and file the stipulation, she files this motion out of an abundance of caution. Id.

8 **A. Procedural History**

9 Plaintiffs filed the underlying complaint in the Eighth Judicial District Court on or about May  
10 9, 2017. Plaintiffs subsequently filed an amended complaint, and served BoNYM on June 22, 2017.  
11 BoNYM filed a Petition for removal on July 20, 2017. ECF No. 1. BoNYM filed a motion to  
12 dismiss on September 25, 2018. ECF No. 12. The motion to dismiss is fully briefed and pending  
13 decision. The parties filed a proposed discovery plan/scheduling order on January 16, 2018, which  
14 was approved on January 19, 2018. ECF Nos. 19, 20. Per the order, the dispositive motion deadline  
15 expires on April 25, 2018.

16 **B. Good Cause to Extend Deadlines**

17 Counsel for the parties met in person to discuss settlement on March 6, 2018, during which  
18 time a settlement offer was conveyed to BoNYM. At this meeting, counsel for the parties orally  
19 agreed to postpone the upcoming deadlines during the settlement negotiations, and intended to  
20 submit a stipulation to that effect. The following week, on March 13, 2018, the parties agreed to  
21 allow an appraisal to be done to assist with the settlement negotiations. The parties are currently  
22 awaiting the completion of the appraisal.

23 Counsel for BoNYM prepared and sent Plaintiffs' counsel a stipulation to extend deadlines  
24 on March 21, 2018 via e-mail. A follow-up e-mail was sent on March 26, 2018, and on April 9,  
25 2018. Shortly thereafter, counsel for BoNYM spoke to Plaintiffs' counsel's assistant on the phone,  
26 who indicated the stipulation had been mailed. BoNYM's counsel has not yet received the signed  
27 stipulation and order, and was unable to reach Plaintiffs' counsel to obtain approval to e-sign the  
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stipulation. The parties wish to avoid the expense of dispositive motion briefing in the event they are able to reach settlement.

In addition, BoNYM has a motion to dismiss fully briefed and pending. ECF No. 12, 17. Extension of the dispositive motion deadline would allow additional time for an order to be entered on the motion to dismiss before the parties prepare additional briefing, which could be unnecessary depending on the result of the motion to dismiss.

BoNYM's requested extension would place the new deadlines as follows:

Dispositive Motion Deadline: June 25, 2018.

Joint Pre-Trial Order Deadline: July 25, 2018.

This motion is not intended for the purpose of delay or to prejudice any party, but to allow the parties to finish settlement discussions before incurring additional litigation costs.

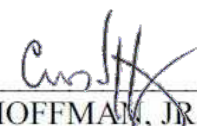
DATED this 25th day of April, 2018.

**AKERMAN LLP**

/s/ Jamie K. Combs, Esq.  
ARIEL E. STERN, ESQ.  
Nevada Bar No. 8276  
JAMIE K. COMBS, ESQ.  
Nevada Bar No. 13088  
1635 Village Center Circle, Ste. 200  
Las Vegas, Nevada 89134  
Attorneys for Bank of America, N.A.

IT IS SO ORDERED.

DATED: April 26, 2018

  
\_\_\_\_\_  
C.W. HOFFMAN, JR.  
UNITED STATES MAGISTRATE JUDGE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 25<sup>th</sup> day of JApril, 2018 and pursuant to FRCP 5(b)(2)(E), I caused service via U.S. District Court's Case Management/Electronic Case Files (CM/ECF) system a true and correct copy of the foregoing **MOTION TO EXTEND DEADLINES**, addressed to:

Fred W Kennedy, Esq.  
**Fred W. Kennedy**  
719 South 6th Street  
Las Vegas, NV 8910  
Attorney for Plaintiff

/s/ Jamie K. Combs  
\_\_\_\_\_  
An employee of AKERMAN LLP

# **Exhibit A**

1 **DECLARATION OF JAMIE K. COMBS**

2 I, Jamie K. Combs, Esq., counsel for Bank of New York Mellon (**BoNYM**) declare, under  
3 penalty of perjury, as follows:

4 1. I am a duly licensed attorney admitted to practice in the State of Nevada. I am an  
5 attorney at Akerman LLP and counsel of record for BoNYM in this matter.

6 2. I have personal knowledge of the facts and circumstances set forth in this declaration  
7 as specified herein and could and would competently testify to these facts and circumstances in a  
8 court of law.

9 3. Fred Kennedy, Esq. and I met in person to discuss settlement on March 6, 2018, during  
10 which time a settlement offer was conveyed to BoNYM.

11 4. At this meeting, we orally agreed to postpone the upcoming deadlines during the  
12 settlement negotiations, and intended to submit a stipulation to that effect.

13 5. The following week, on March 13, 2018, the parties agreed to allow an appraisal to be  
14 done to assist with the settlement negotiations. We are currently awaiting the completion of the  
15 appraisal.

16 6. I prepared and sent Mr. Kennedy a stipulation to extend deadlines on March 21, 2018  
17 via e-mail. I sent follow-up e-mails on March 26, 2018, and on April 9, 2018. Shortly thereafter, I  
18 spoke to Plaintiffs' counsel's assistant on the phone, who indicated the stipulation had been mailed.

19 7. I have not yet received the signed stipulation and order, and was unable to reach  
20 Plaintiffs' counsel today to obtain approval to e-sign the stipulation.

21 8. The parties wish to avoid the expense of dispositive motion briefing in the event they  
22 are able to reach settlement.

23 9. I declare under penalty of perjury that the foregoing is true and correct.

24  
25 /s/ Jamie K. Combs

26 Jamie K. Combs, Esq.