

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

EFRAIN MUNOZ, *individually and on  
behalf of all others similarly situated,  
et al.*,

Plaintiffs,

v.

PHH MORTGAGE CORPORATION,  
*et al.*,

Defendants.

No. 1:08-cv-00759-MMB-BAM

**ORDER RESPECTING  
PLAINTIFFS' MOTION  
IN LIMINE #6**

15 Plaintiffs' sixth motion *in limine* (ECF 468, at 15–17) requests an order  
16 “requiring Defendants to produce witnesses for Plaintiffs’ case in chief that  
17 they themselves will bring to trial” and argues that “[a]s a matter of fairness,  
18 Plaintiffs should have the option to call Defendants’ witnesses live *during*  
19 *Plaintiffs’ case-in-chief* rather than relying on deposition testimony.” ECF 468,  
20 at 15–16 (emphasis added).

21 Defendants are not required to reach a definite decision, either in ad-  
22 vance of trial or even during Plaintiffs’ case-in-chief, which witnesses they will  
23 call, as that decision is a strategic matter Defendants are entitled to make in  
24 response to the evidence Plaintiffs introduce during their case-in-chief. While  
25 Plaintiffs are no doubt correct that “[j]uries pay better attention to live wit-  
26 nesses and are notoriously bored by spliced video clips,” *id.* at 16, the potential  
27 for juror boredom is not a sufficient reason to impose a procedural burden on

1 Defendants. Plaintiffs' desired order would also allow for the problematic sce-  
2 nario where Defendants *might* want to call a witness, are therefore forced to  
3 produce that witness for Plaintiffs to call, yet then determine that they did not  
4 need to call that witness after all.

5 Plaintiffs' motion *in limine* #6 is therefore **DENIED**.

6 Dated: January 6, 2022

/s/ M. Miller Baker

7

M. Miller Baker, Judge<sup>1</sup>

---

<sup>1</sup> Judge of the United States Court of International Trade, sitting by designation.