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**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 #3**

15 Plaintiffs' third motion *in limine* (ECF 468, at 8–9) requests an order “to
16 preclude Defendants from presenting any argument, testimony, or evidence
17 regarding or referencing Defendants' financial conditions.” ECF 468, at 8.

18 In response, Defendants state as follows:

19 During a meet and confer between the parties on December 1,
20 2021, counsel for Plaintiffs confirmed that, as articulated in the
21 parties' Joint Pretrial Statement, this motion seeks to preclude
22 only argument, evidence[,] or testimony about Defendants' *current*
23 financial condition or *current* ability or inability to pay damages
24 owed to Plaintiffs (if any). Defendants have no present intention to
25 introduce evidence regarding the current financial condition of any
26 Defendant, and therefore take no position on Plaintiffs' motion.
27 Defendants' financial condition related to the class period is
28 plainly relevant to Plaintiffs' RESPA claim.

29 ECF 479, at 7 (emphasis in original; citations omitted). In reply, Plaintiffs
30 characterize motion #3 as seeking to preclude “any argument, testimony, or
31 evidence regarding or referencing Defendants' *present* financial conditions or

1 *current* ability or inability to pay damages owed to Plaintiffs.” ECF 493, at 2
2 (emphasis added).

3 The characterization of motion #3 in Plaintiffs’ reply brief is more limited
4 in scope than the phrasing used in the original motion because the original
5 motion does not limit the requested order to Defendants’ “*present* financial con-
6 ditions or *current* ability or inability to pay”—the original motion simply refers
7 to “Defendants’ financial conditions (and ability or inability to pay damages
8 owed to Plaintiffs).” ECF 468, at 9. Because Plaintiffs’ reply brief limits the
9 scope of the order sought to that described by Defendants in their responsive
10 brief, and because Defendants take no position on the motion insofar as it has
11 that narrower scope, there is no reason not to grant the limited order.

12 Accordingly, it is hereby **ORDERED** that Plaintiffs’ motion *in limine* #3
13 is **GRANTED** to the extent that, at trial, Defendants may not offer any argu-
14 ment, testimony, or evidence regarding or referencing Defendants’ present fi-
15 nancial conditions or current ability or inability to pay damages owed to Plain-
16 tiffs, and is **DENIED** to the extent it seeks any other relief.

17 Dated: January 10, 2022

/s/ M. Miller Baker

M. Miller Baker, Judge¹

¹ Judge of the United States Court of International Trade, sitting by designation.