

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA - FRESNO**

NORMA MADRIGAL,

Plaintiff,

v.

NATIONSTAR MORTGAGE, LLC;
BARRETT DAFFIN FRAPPIER
TREDER & WEISS, LLP; DOES 1
through 50, inclusive,

Defendants.

Case No.: 1:15-cv-00809-SAB
Hon. Magistrate Judge Stanley A. Boone

PROTECTIVE ORDER

Complaint filed: May 19, 2015
FAC filed: June 17, 2015
SAC filed: August 4, 2015
Trial Date: June 6, 2017

THIS CAUSE is before the Court on the Stipulation for Protective Order filed by plaintiff Norma Madrigal (**plaintiff**) and defendant Nationstar Mortgage LLC (**Nationstar**) pursuant to FED. R. CIV. P. 26(c)(1). The Court, having reviewed the file being otherwise advised, finds there is a potentially significant number of documents to be exchanged in discovery in this case containing plaintiff or non-party Benigno Romero (**Romero**)'s non-public personal information or Nationstar's confidential and proprietary information, such that document-by-document review of discovery

1 materials will be impracticable if the case is to proceed in an orderly, timely and
2 efficient manner.

3 The Court further finds the Parties' interests in protecting plaintiff and Romero's
4 non-public personal information and Nationstar's confidential and commercially
5 sensitive information from unnecessary disclosure, and the benefit to the Court of an
6 orderly and expeditious resolution of this matter on its merits, outweigh any societal
7 interest in disclosure of such materials to non-parties. Thus, after due consideration
8 by the Court and for good cause shown, the Court finds it is appropriate to expedite
9 the flow of discovery material, promote the prompt resolution of disputes over
10 confidentiality, and to facilitate the preservation of material arguably worthy of
11 protection. Accordingly, it is

12 **ORDERED and ADJUDGED as follows:**

13 1. "CONFIDENTIAL" Documents, Materials, and Information. This Order
14 shall govern all documents produced or exchanged, all written answers, deposition
15 answers and other responses to discovery, and all communications of any kind made
16 by plaintiff Norma Madrigal, her attorneys, consultants, agents, and representatives;
17 defendant Nationstar Mortgage LLC, its attorneys, consultants, agents, employees and
18 representatives; and other third parties. "CONFIDENTIAL" materials shall be the
19 documents or information respectively designated under this Order and any notes,
20 work papers, or other documents respectively containing "CONFIDENTIAL"
21 materials derived from such items. Any party may identify any documents or
22 information, including but not limited to discovery materials produced by that party,
23 initial disclosures, documents and things, answers to interrogatories, responses to
24 requests for production, responses to requests for admission, deposition exhibits, and
25 all or portions of deposition or hearing transcripts, as "CONFIDENTIAL" and
26 designate the documents or information as such by affixing thereto a legend of
27 "CONFIDENTIAL" or by designating through another method set forth in this Order
28

1 or agreed to by the parties. A party may designate documents or information as
2 "CONFIDENTIAL" to the extent that the party, through counsel, believes such
3 material is confidential because it contains or includes: (1) confidential business or
4 technical information; (2) trade secrets; (3) proprietary business methods or practices;
5 (4) any other competitively sensitive confidential information; (5) personal
6 information, including personal financial information about customers or applicants,
7 Romero, any party to this lawsuit, or an employee of any party to this lawsuit; (6)
8 information regarding any individual's banking or lending relationships, including,
9 without limitation, information regarding any individual's mortgage or credit history
10 and/or consumer information not otherwise available to the public; and (7) any other
11 categories that are later agreed to in writing by the parties or ordered by the Court.

12 2. Designation of "CONFIDENTIAL" Material. Documents shall be
13 designated as "CONFIDENTIAL" by stamping them with the word
14 "CONFIDENTIAL" in a manner which will not interfere with their legibility. This
15 designation shall only be used in a reasonable fashion and upon a good faith
16 determination by counsel a particular document contains non-public information and
17 falls within one of the categories enumerated in Paragraph 1. This designation shall
18 ordinarily be made before or at the same time as the production or disclosure of the
19 material. Because materials described in Paragraph 1 shall be covered by this Order,
20 there shall be no waiver of confidentiality if such materials are inadvertently produced
21 without being stamped "CONFIDENTIAL." Materials already produced in discovery
22 in this litigation may be designated as "CONFIDENTIAL" upon written notice
23 (without stamping), within fourteen (14) days of the entry of this Order, from the party
24 asserting the confidentiality designation to all counsel of record to whom such
25 documents have been produced by notifying the other party of the identity of the
26 documents or information to be so designated. Any of the parties to this action can
27
28

1 remove at any time its designation of "CONFIDENTIAL" from any of the documents
2 or information it has previously so designated.

3 3. Treatment of "CONFIDENTIAL" Information. Unless otherwise ordered
4 by the Court, "CONFIDENTIAL" material, and any quotes, summaries, charts or
5 notes made therefrom, and any facts or information contained therein or derived
6 therefrom, shall be held in confidence and used by the parties to whom the documents
7 and information are produced solely for the purpose of this case. The parties agree to
8 take reasonable steps to maintain the confidentiality of the documents, information
9 and testimony relating thereto. During the pendency of this litigation,
10 "CONFIDENTIAL" material, including all copies thereof, shall be retained solely in
11 the custody of the parties' attorneys and shall not be placed in the possession of or
12 disclosed to any other person, except as set forth in this Order, as otherwise agreed
13 upon by the parties, or upon leave of Court. Each person to whom
14 "CONFIDENTIAL" material is disclosed pursuant to this Order is hereby prohibited
15 from exploiting in any way such documents or information for his, her or its own
16 benefit, or from using such information for any purpose or in any manner not
17 connected with the prosecution or defense of this case.

18 4. "Disclosure." As used herein, "disclosure" or to "disclose" shall mean to
19 divulge, reveal, describe, summarize, paraphrase, quote, transmit, or otherwise
20 communicate "CONFIDENTIAL" material.

21 5. Permissible Disclosure of "CONFIDENTIAL" Material. Except by order
22 of this Court, or otherwise as required by law, material designated as
23 "CONFIDENTIAL" (and any notes or documents that reflect or refer to such
24 documents and information) shall not be disclosed to any person other than:

25 (a) A party hereto;

- 1 (b) Counsel employed by a party, or an employee of such counsel, to whom it
2 is necessary that the materials be shown or the information known for
3 purposes of this case;
- 4 (c) Any employee or agent of a party to whom the "CONFIDENTIAL"
5 materials are shown for the purpose of working directly on or testifying in
6 connection with this litigation at the request of or at the direction of
7 counsel for such party, who has signed an acknowledgement in the form of
8 Exhibit A hereto, which signed acknowledgment shall be retained by the
9 party who has retained such person;
- 10 (d) A person retained to assist in this action, such as an investigator,
11 independent accountant, or other technical expert or consultant, who has
12 signed an acknowledgement in the form of Exhibit A hereto, which signed
13 acknowledgment shall be retained by the party who has retained such
14 person;
- 15 (e) This Court (or its employees or agents) pursuant to a court filing in
16 connection with this action;
- 17 (f) Any person(s) designated by the Court in the interest of justice, upon such
18 terms as the Court may deem proper;
- 19 (g) Members of the jury at a public trial of this matter, subject to the
20 requirements of Paragraph 11 below; or
- 21 (h) A person who is deposed or who testifies at the hearing in this matter who
22 has signed an acknowledgement in the form of Exhibit A hereto, which
23 signed acknowledgment shall be retained by the party who has compelled
24 such person to testify at a deposition or trial. If the witness refuses to sign
25 such form, the party compelling such testimony shall immediately notify
26 opposing counsel and permit them seven (7) days to seek redress with the
27 Court.
- 28

1 6. Review of Own "CONFIDENTIAL" Materials. The restrictions of this
2 Order shall not apply to parties, and their employees, attorneys, experts or other
3 authorized agents, when reviewing their own "CONFIDENTIAL" materials.

4 7. Deposition Transcripts. Deposition testimony and deposition exhibits
5 containing "CONFIDENTIAL" material shall be covered by this Order. During a
6 deposition taken in this matter, any party may, on the record, designate as
7 "CONFIDENTIAL" portions of the deposition testimony or deposition exhibits.
8 Alternatively, a party may, by written notice to opposing counsel and the court
9 reporter not later than fourteen (14) business days after receipt of the deposition
10 transcript, designate as "CONFIDENTIAL" any portions of the deposition testimony
11 or deposition exhibits. Until expiration of the above fourteen (14) day period, all
12 deposition transcripts will be treated as "CONFIDENTIAL" material unless otherwise
13 agreed to in writing by the parties.

14 8. Objections to "CONFIDENTIAL" Designations. To the extent that any
15 party contests a designation under this Order, such party shall object to such
16 designation in writing. The parties shall first try to resolve the disagreement in good
17 faith on an informal basis, such as the production of redacted copies. If the parties are
18 unable to reach an agreement regarding the designation, then the party objecting to
19 such designation shall file an appropriate motion with the Court for a ruling that the
20 documents or other information shall not be accorded such status and treatment. In
21 the event that such a challenge is made, the party asserting the confidentiality
22 designation shall have the burden of establishing that the designation is proper. Until
23 this Court enters an order changing the designation of such documents or information,
24 such document or information shall continue to be protected as provided by this
25 Order. Should the Court rule in favor of the party objecting to the confidentiality
26 designation, the party asserting the designation shall produce a copy of the
27 document(s) without the "CONFIDENTIAL" designation.

28

1 9. Disclosing "CONFIDENTIAL" Material. If any party wishes to disclose
2 any "CONFIDENTIAL" material beyond the terms of Paragraphs 5-6 of this Order,
3 that party shall provide all other parties with reasonable notice in writing of the
4 request to disclose the materials, unless otherwise required by law. If the parties
5 cannot resolve their disagreement with respect to the disclosure of any designated
6 information, then a party may petition the Court for a determination of these issues.
7 In the event that such a challenge is made, the party asserting the confidentiality
8 designation shall have the burden of establishing that the designation is proper. Such
9 "CONFIDENTIAL" material shall remain "CONFIDENTIAL" as stipulated by this
10 Order until the Court rules on the party's specific petition.

11 10. Pleadings and Other Court Submissions. Each party agrees that when
12 filing with Court any papers (including, without limitation, affidavits, memoranda,
13 interrogatory answers or depositions) that disclose directly or indirectly any
14 "CONFIDENTIAL" material, such papers shall be filed under seal in accordance with
15 the Court's local rules and requirements for filing documents under seal.

16 The parties further recognize the possible need to use documents marked
17 "CONFIDENTIAL" during the trial of this matter. However, the parties agree to take
18 reasonable steps to protect the confidentiality of any trial exhibits so designated to
19 include asking the Court to ensure that any such documents referred to or offered into
20 evidence at trial are filed with the Court under seal.

21 11. Document Retention. After the conclusion of this matter (including the
22 expiration of all appeals), all originals and reproductions of the "CONFIDENTIAL"
23 materials shall be returned to the producing party within thirty (30) days of such
24 conclusion or be destroyed (in which case counsel for the party destroying said
25 documents shall certify in writing to the producing party within thirty (30) days of
26 such conclusion that destruction of the "CONFIDENTIAL" materials has taken place).
27 Insofar as the provisions of this Order restrict the use of the documents produced
28

1 hereunder, the Order shall continue to be binding throughout and after the conclusion
2 of this case, including all appeals, except as set forth in Paragraph 13.

3 12. Admissibility. Nothing in this Order shall be construed to limit any party
4 from producing or introducing any document into evidence at public hearing. Subject
5 to the Rules of Evidence, "CONFIDENTIAL" materials and other confidential
6 information may be offered in evidence at trial or any court hearing. Any party may
7 move the court for an Order that the evidence be received *in camera* or under other
8 conditions to prevent unnecessary disclosure of any "CONFIDENTIAL" material.
9 The Court will then determine whether the proffered evidence should continue to be
10 treated as "CONFIDENTIAL" and, if so, what protection, if any, may be afforded to
11 such information at the trial or hearing.

12 13. Scope of Discovery. Nothing in this Order shall preclude any party from
13 opposing production of any documents or information, or from seeking further or
14 different relief should future pretrial activities indicate such a need.

15 14. Client Consultation. Nothing in this Order shall bar or otherwise restrict
16 any attorney herein from rendering advice to his or her client with respect to this case
17 or from doing anything necessary to prosecute or defend this case and further the
18 interests of his or her client, provided, however, the attorney shall not disclose any
19 material designated for protection hereunder where such disclosure would be contrary
20 to the terms of this Order.

21 15. Discretion of the Court. Nothing in this Order shall apply to, bind, or
22 limit the Court or its employees in the performance of their duties. Notwithstanding
23 any foregoing suggestion to the contrary, the Court shall retain final and complete
24 authority to re-designate any material previously designated as "CONFIDENTIAL" as
25 a public document.

26 16. Notice of Breach. It shall be the obligation of counsel, upon hearing of
27 any breach or threatened breach of this Order by any person, promptly to notify
28

1 counsel for the opposing and producing parties of such breach or threatened breach.
2 The parties shall make every reasonable effort to mark all discovery containing
3 "CONFIDENTIAL" materials, but the mistaken or inadvertent failure to mark the
4 discovery material, where notice has otherwise been given it contains
5 "CONFIDENTIAL" materials, shall not exempt it from the provisions of this Order.

6 17. Litigation Use Only. All "CONFIDENTIAL" materials produced in this
7 litigation, whether by a party or nonparty, and whether pursuant to the Rules of Civil
8 Procedure, subpoena, agreement or otherwise, and all information contained therein or
9 derived therefrom, shall be used solely for the preparation and trial of this action
10 (including any appeals and retrials), and may not be used for any other purpose,
11 including business, governmental or commercial, or any other administrative or
12 judicial proceedings or actions.

13 18. Subpoena by Other Court or Agencies. If another court or an
14 administrative agency subpoenas or orders production of "CONFIDENTIAL"
15 materials that a party obtained under the terms of this Order, the party receiving the
16 subpoena shall promptly notify the party or other person who designated the
17 "CONFIDENTIAL" materials of the pendency of such subpoena or order.

18 19. Inadvertent Disclosure Protection. Review of the "CONFIDENTIAL"
19 materials labeled "CONFIDENTIAL" by counsel, experts, or consultants in the
20 litigation shall not waive the "CONFIDENTIAL" designation or any objections to
21 production. "CONFIDENTIAL" materials inadvertently produced by any party or
22 nonparty through discovery in this action without having been designated as
23 "CONFIDENTIAL" shall be subject to the provisions of this Order to the same extent
24 as if the inadvertent disclosure had not occurred so long as there is reasonable notice
25 to the other party of the inadvertent disclosure. If a producing party inadvertently
26 discloses to a receiving party information that is privileged or otherwise immune from
27 discovery, said producing party shall promptly, upon discovery of such disclosure, so
28

1 advise the receiving party in writing and request that the item or items of information
2 be returned. No party to this action shall thereafter assert that such disclosure waived
3 any privilege or immunity. It is further agreed that the receiving party will return such
4 inadvertently produced item or items of information and all copies thereof within
5 fourteen (14) calendar days of receiving a written request for the return of such item
6 or items of information from the producing party.

7 20. Non-Parties. Non-parties who are required to produce
8 "CONFIDENTIAL" material in response to a subpoena, and who in good faith believe
9 that such material contains confidential information, may rely on this Order and apply
10 it to their production.

11 21. Responsibility of Attorneys. The attorneys of record are responsible
12 for employing reasonable measures to control, consistent with this Order, the
13 duplication of, access to, and distribution of copies of materials labeled
14 "CONFIDENTIAL." Parties shall not duplicate any such materials except for
15 working copies and for filing in court under seal. The attorneys of record further are
16 responsible for employing reasonable measures to control, consistent with this Order,
17 the dissemination or revelation of confidential information.

18
19 IT IS SO ORDERED.

20 Dated: November 20, 2015


UNITED STATES MAGISTRATE JUDGE

EXHIBIT "A"

Certification Re: Confidential Discovery Materials

I hereby acknowledge I, _____[NAME],
_____[POSITION AND EMPLOYER], am about
to receive Confidential Materials supplied in connection with the Proceeding, U.S. District
Court, Eastern District of California Case No. 1:15-cv-00809-SAB.

I certify that I understand that the Confidential Materials are provided to me subject to
the terms and restrictions of a stipulation and protective order filed in this Proceeding. I
have been given a copy of the stipulation and protective order. I certify that I have read it and
that I agree to be bound by its terms.

I understand that Confidential Materials, as defined in the stipulation and protective
order, including any notes or other records that may be made regarding any such materials,
shall not be Disclosed to anyone except as expressly permitted under the terms of the
stipulation and protective order. I will not copy or use, except solely for the purposes of this
Proceeding, any Confidential Materials obtained pursuant to this stipulation and protective
order, except as provided therein or otherwise ordered by the Court in the Proceeding.

I further understand that I am to retain all copies of all Confidential Materials
provided to me in the Proceeding in a secure manner, and that all copies of such Materials
are to remain in my personal custody until termination of my participation in this
Proceeding, whereupon the copies of such Materials will be returned to counsel who
provided me with such Materials.

I declare under penalty of perjury, under the laws of the State of California, that the
foregoing is true and correct.

Executed this ___ day of ___, 20___, at _____.

Signature

Printed Name