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9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION
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13 DECLAN TREANOR,
 14 Plaintiff,
 15 vs.
 16 BAC HOME LOANS SERVICING, LP, et al.,
 17 Defendants.
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No. CV 10-5417 RS

**APPLICATION AND [PROPOSED]
 ORDER CONTINUING INITIAL CASE
 MANAGEMENT CONFERENCE OF
 DEFENDANT BAC HOME LOANS
 SERVICING, LP AND DECLARATION OF
 ERIC G. WALLIS**

19
 20 DEFENDANT’S APPLICATION TO CONTINUE INITIAL CASE MANAGEMENT
 21 CONFERENCE

22 Defendant BAC Home Loans Servicing, LP (BACHLS) hereby requests that an Order be
 23 entered as set forth below: (1) continuing the initial Case Management Conference from March 10,
 24 2011 at 2:30 pm to July 14, 2011 at 2:30 pm and (2) re-setting dates in connection with the
 25 Conference. BACHLS requests the continuance for the following reasons.

26 1. On January 27, 2011 the Court announced a tentative decision to grant BACHLS’
 27 Motion to Dismiss the Complaint. A formal order was issued February 10, 2011 dismissing all
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1 claims for relief but allowing Plaintiff leave to amend certain claims. Plaintiff will have up to and
2 including March 10, 2011 within which to file and serve a First Amended Complaint.

3 2. At this time a First Amended Complaint has not been filed; the parties thus cannot
4 state what claims will be pled nor what claims may ultimately be prosecuted as BACHLS has not
5 had an opportunity to review an amended complaint and determine whether Rule 12 motions are
6 appropriate, nor has the Court heard and ruled upon any such motions.

7 3. The initial Case Management Conference is set for March 10, 2011, the same day as
8 Plaintiff's First Amended Complaint is due for filing. The pleadings in this action are thus not at
9 issue, and will not be at issue, by the currently-scheduled Case Management Conference.
10 Furthermore, the Case Management Conference requires preparation of a Joint Case Management
11 Conference Statement and the Initial Exchange of Documents and Identification of Witnesses.
12 Given the unsettled state of the pleadings, BACHLS believes that it is impracticable to perform
13 these tasks before the Case Management Conference on March 10 as the underlying claims and
14 legal issues have not been established.

15 4. Plaintiff has stated that he wishes to apply for a modification of his home loan
16 which, if granted, may make this action moot. He has not returned the papers to do so to
17 BACHLS yet. BACHLS does not believe a final decision on that application will be made before
18 March 3, 2011, when the Joint Case Management Conference Statement currently is to be filed and
19 the Initial Exchange is to occur.

20 5. BACHLS therefore requests that the Initial Case Management Conference be
21 continued to July 14, 2011 at 2:30 pm in Courtroom 3.

22 DATED: February 21, 2011.

23 REED SMITH LLP

24 By 

25 Eric G. Wallis
26 Alicia A. Adornato
27 Attorneys for Defendant BAC Home Loans
28 Servicing, LP

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2 DECLARATION OF ERIC G. WALLIS SUPPORTING APPLICATION TO CONTINUE
3 INITIAL CASE MANAGEMENT CONFERENCE

4 I, Eric G. Wallis, say:

5 1. I am a partner of Reed Smith LLP, attorneys for Defendant BAC Home Loans
6 Servicing, LP (BACHLS), and am a member of the Bar of this Court.

7 2. On January 27, 2011 the Court announced a tentative decision to grant BACHLS'
8 Motion to Dismiss the Complaint. A formal order was issued February 10, 2011 dismissing all
9 claims for relief but allowing Plaintiff leave to amend certain claims. Plaintiff will have up to and
10 including March 10, 2011 within which to file and serve a First Amended Complaint.

11 3. At this time a First Amended Complaint has not been filed; BACHLS thus has not had
12 an opportunity to review an amended complaint and determine whether Rule 12 motions are
13 appropriate, nor has the Court heard and ruled upon any such motions.

14 4. The Initial Case Management Conference in this action is set for March 10, 2011, the
15 same day as Plaintiff's First Amended Complaint is due. The pleadings in this case are thus not at
16 issue, and will not be at issue, by the currently-scheduled Case Management Conference.
17 Furthermore, the Case Management Conference requires preparation of a Joint Case Management
18 Conference Statement and the Initial Exchange of Documents and Identification of Witnesses.
19 Given the unsettled state of the pleadings, BACHLS believes that it is impracticable to perform
20 these tasks before the March 10 Case Management Conference.

21 5. Plaintiff has been sent papers to apply for a modification of his home loan which, if
22 granted, may make this action moot. He has not to date returned the papers.

23 6. On February 16, 2011 I asked Plaintiff to submit a Joint Application to continue the
24 Initial Case Management Conference for the foregoing reasons. On February 21, 2011, Plaintiff
25 advised me that he would not agree to the Joint Application. Accordingly, BACHLS requests that
26 the Initial Case Management Conference be continued to July 14, 2011 at 2:30 pm in Courtroom 3.

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Signed at San Francisco, California on February 21, 2011.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



Eric G. Wallis

ORDER

Based on the foregoing Application, the Court continues the initial Case Management Conference from March 10, 2011 to July 14, 2011 at 2:30 pm in Courtroom 3 and sets the following dates in connection with the Conference:

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| 6/24/2011 | Last day to: | Rule |
| | • meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan | FRCivP 26(f) & ADR L.R.3-5 |
| | • file ADR Certification signed by Parties and Counsel (form available at http://www.cand.uscourts.gov) | Civil L.R. 16-8(b) & ADR L.R. 3-5(b) |
| | • file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference (form available at http://www.cand.uscourts.gov) | Civil L.R. 16-8(c) & ADR L.R. 3-5(b) & |
| 7/7/2011 | Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement | FRCivP 26(a)(1)
Civil L.R. 16-9 |
| 7/14/2011 | INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Ctrm 3, 17th Floor, SF at 2:30 PM 10:00 AM | Civil L.R. 16-10 |

Dated: February 22, 2010.



Richard Seeborg

United States District Judge