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6 IN THE UNITED STATES DISTRICT COURT  
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8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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10 VARINDER SUDHIR,

11 Plaintiff,

No. C 16-06088 WHA

12 v.

13 PHH MORTGAGE CORPORATION,

14 Defendant.  
15 \_\_\_\_\_/

**ORDER RE COUNSELS' JOINT  
LETTER OF AUGUST 16, 2017,  
RE DISCOVERY DISPUTE**


16 The Court offered to hear the discovery dispute summarized in the August 16 letter on  
17 August 24, then September 6, but counsel rejected both offers. Having read the joint letter, the  
18 Court **RULES** as follows:

19 The medical records sought by defendant are out of proportion to the  
20 issues in this case and plaintiff's objection is **SUSTAINED**. Ordinarily, when a  
21 plaintiff claims severe emotional distress, the other side is entitled to medical  
22 records to test the claim, but in this case plaintiff will not be allowed to claim  
23 "severe emotional distress" because of plaintiff's refusal to provide medical  
24 records. The most that plaintiff may seek to establish would be the garden variety  
25 emotional distress, and neither plaintiff nor his counsel may in any way suggest  
26 that the emotional distress was "severe" nor, of course, may plaintiff use a  
27 medical expert on this question. Plaintiff and plaintiff only can testify to the  
28 garden variety emotional distress. In the event that the testimony extends beyond

1 the garden variety emotional distress, the Court will advise the jury that plaintiff  
2 refused to provide medical records to test this assertion and that it is unfair for  
3 plaintiff to seek more than the garden variety emotional distress.

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5 **IT IS SO ORDERED.**

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7 Dated: August 22, 2017.

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE