

United States District Court
For the Northern District of California

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

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DALE HARMS,
Plaintiff,
v.
BAC HOME LOANS SERVICING, L.P.,
RECONSTRUCT COMPANY N.A., DOES 1-10,
Defendants.

No. 11-02757 CW
ORDER REFERRING CASE
TO ALTERNATIVE
DISPUTE RESOLUTION
FOR INITIAL
ASSESSMENT AND
VACATING SEPTEMBER
29, 2011 HEARING DATE

Pursuant to Civil L.R. 16-8 and ADR L.R. 2-3, the Court refers this foreclosure-related action to the Alternative Dispute Resolution (ADR) Unit to assess this case's suitability for mediation or a settlement conference. Plaintiff Dale Harms and Defendants' counsel shall participate in a telephone conference, to be scheduled by the ADR Unit on a date before September 21, 2011.

Plaintiff and Defendants' counsel shall be prepared to discuss the following subjects:

- (1) Identification and description of claims and alleged defects in loan documents.
- (2) Prospects for loan modification.
- (3) Prospects for settlement.

1 (4) Any other matters that may be conducive to the just,
2 efficient and economical determination of the
3 action.

4 The parties need not submit written materials to the ADR Unit for
5 the telephone conference.

6 In preparation for the telephone conference, Plaintiff shall
7 do the following:

8 (1) Review relevant loan documents and conduct a brief
9 investigation of claims to determine whether the
10 claims in this action have merit.

11 (2) If Plaintiff is seeking a loan modification to
12 resolve all or some of his claims, he shall prepare
13 a current, accurate financial statement and gather
14 all of the information and documents customarily
15 needed to support a loan modification request.
16 Further, Plaintiff shall immediately notify
17 Defendants' counsel of his request for a loan
18 modification.

19 (3) Provide counsel for Defendants with information
20 necessary to evaluate the prospects for loan
21 modification. The general and financial information
22 provided to Defendants may be in the form of a
23 financial statement, worksheet or application
24 customarily used by financial institutions.

25 In preparation for the telephone conference, counsel for
26 Defendants shall do the following.

27 (1) If Defendants are unable or unwilling to do a loan
28 modification after receiving notice of Plaintiff's
29 request, counsel for Defendants shall promptly
30 notify Plaintiff to that effect.

31 (2) Arrange for a representative of each Defendant with
32 full settlement authority to participate in the
33 telephone conference.

34 The ADR Unit will provide the parties with additional
35 information regarding the telephone conference, including the date
36 it will be held. After the telephone conference has been held, the
37 ADR Unit will advise the Court of its recommendation for further

1 ADR proceedings.

2 The September 29, 2011 hearing on Defendants' motion to
3 dismiss, Plaintiff's motion to amend and the case management
4 conference is vacated. The motions are taken under submission on
5 the papers and will be decided after the Court receives notice of
6 the result of the parties' ADR conference. If necessary, the Court
7 will set another date for a case management conference.

8

9 IT IS SO ORDERED.

10

11 Dated: 9/13/2011



CLAUDIA WILKEN
United States District Judge

12

13

14

15

16

17

18

19

20

21

22 cc: ADR

23

24

25

26

27

28

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 HARMS et al,

5 Plaintiff,

6 v.

7 BAC HOME LOANS SERVICING, L.P. et al,

8 Defendant.

Case Number: CV11-02757 CW

CERTIFICATE OF SERVICE

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court,
10 Northern District of California.

11 That on September 13, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Dale Norman Harms
16 2063 Main Street, Suite 282
Oakley, CA 94561

17 Dated: September 13, 2011

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk