

1 **STIPULATED F.R.E. RULE 502(d) ORDER**

2 1. This Order is entered pursuant to Rule 502(d) of the Federal Rules of Evidence
3 and hereby amends, as necessary, the Protective Order entered by this Court on August 20, 2013
4 (Doc. 27). Subject to the provisions of this Order, if a party (the “Disclosing Party”) discloses
5 information in connection with the pending litigation that the Disclosing Party thereafter claims
6 to be privileged or protected by the attorney-client privilege or work product protection
7 (“Protected Information”), the disclosure of that Protected Information will not constitute or be
8 deemed a waiver or forfeiture—in this or any other action—of any claim of privilege or work
9 product protection that the Disclosing Party would otherwise be entitled to assert with respect to
10 the Protected Information and its subject matter.
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12 2. A Disclosing Party may notify the party receiving the Protected Information (the
13 “Receiving Party”) at any time in writing that it has disclosed that Protected Information without
14 intending a waiver by the disclosure. Upon such notification, the Receiving Party must—unless
15 it contests the claim of attorney-client privilege or work produce protection in accordance with
16 paragraph 3—promptly: (i) notify the Disclosing Party that it will make best efforts to identify
17 and return, sequester or destroy (or in the case of electronically stored information, delete) the
18 Protected Information and any reasonably accessible copies it has, and (ii) provide a certification
19 that it will cease further review, dissemination, and use of the Protected Information.
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21 3. If the Receiving Party contests the claim of attorney-client privilege or work
22 product protection, the Receiving Party must—within five business days of receipt of the notice
23 of disclosure—move the Court for an order compelling disclosure of the information claimed as
24 unprotected (a “Disclosure Motion”). The Disclosure Motion must be filed under seal and must
25 not assert as a ground for compelling disclosure the fact or circumstances of the disclosure.
26 Pending resolution of the Disclosure Motion, the Receiving Party must not use the challenged
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1 information in any way or disclose it to any person other than those required by law to be served
2 with a copy of the sealed Disclosure Motion.

3 4. The parties may stipulate to extend the time periods contained herein.

4 5. Nothing in this Order overrides any attorney's ethical responsibilities to refrain
5 from examining or disclosing materials that the attorney knows or reasonably should know to be
6 privileged and to inform the Disclosing Party that such materials have been produced.
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8 6. The Disclosing Party retains the burden—upon challenge pursuant to paragraph
9 3—of establishing the privileged or protected nature of the Protected Information.

10 7. Nothing in this Order limits the right of any party to petition the Court for an in
11 camera review of the Protected Information.

12 8. This Order does not preclude a party from voluntarily waiving the attorney-client
13 privilege or work product protection. The provisions of Federal Rule of Evidence 502(a) apply
14 when the Disclosing Party uses or indicates that it may use information produced under this
15 Order to support a claim or defense.
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17 9. The provisions of Federal of Evidence 502(b) are inapplicable to the production
18 of Protected Information under this Order.

19 10. This Order is entered pursuant to Federal Rule of Civil Procedure 26(c)(1).

20 11. The parties hereby agree to abide by the terms of this Order during any interim
21 period prior to its entry and shall continue to abide by its terms after its entry absent a contrary
22 order of the Court.
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24 **IT IS SO STIPULATED on October__ 2014:**
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Dated: October 16, 2014

MAYER BROWN LLP

By: /s/Debra Bogo-Ernst
Debra Bogo-Ernst
Steven E. Rich

Attorneys for Defendants
CITIBANK, N.A. AND CITIMORTGAGE,
INC.

Dated: October 16, 2014


BARON & BUDD P.C.

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Attorneys for Plaintiffs GLORIA STITT,
RONALD STITT, MARK ZIRLOTT, and
TERRI LOUISE ZIRLOTT, individually and on
behalf of the general public similarly situated.

IT IS SO ORDERED:

Dated: 10/17/14

Joseph
United States District Judge

Judge Joseph C. Spero
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA