



1           Although briefing on the motion for review of Judge Grewal’s order was completed on  
2 February 11, 2011, the Court has deferred consideration of that motion pending disposition of the  
3 motion to strike. The motion to strike was heard on March 11, 2011. Because the Court has  
4 concluded that the motion to strike is not well-taken,<sup>2</sup> Countrywide’s challenge to Judge  
5 Grewal’s order on the basis of relevance necessarily fails.

6           Countrywide also challenges an aspect of Judge Grewal’s order directing Countrywide to  
7 produce a “statistically valid sample” in response to certain document requests. The order  
8 provides that “[i]f Countrywide wishes to avoid a further order compelling production of *all*  
9 documents responsive to these requests, then it must stipulate in writing that the sample produced  
10 is statistically valid and representative of all responsive documents, and that it will not argue that  
11 Plaintiff’s showing of the requirements of Federal Rules of Civil Procedure 23 is deficient based  
12 on any responsive documents not produced as part of the sampling.” Order, p. 2 n.3.

13 Countrywide asserts that Judge Grewal has given it “a Hobson’s choice: (a) produce *all*  
14 documents regarding more than 1,200 lenders and 160,000 loan transactions or (b) produce a  
15 sample of the documents and accept a preclusion order that would bar [Countrywide] from  
16 contesting the statistical validity of the sample of documents in opposition to class certification.”  
17 Mot. p. 4. The Court concludes that this aspect of Judge Grewal’s order is not “clearly erroneous  
18 or contrary to law.” *See* Fed. R. Civ. P. 72(a). Judge Grewal properly concluded that the subject  
19 documents are relevant and discoverable. Because of the volume of documents in question,  
20 Judge Grewal gave Countrywide the option of producing a sample of responsive documents in  
21 lieu of making a complete production. However, the order reasonably included safeguards  
22 holding Countrywide accountable for its choice of sample. The Court concludes that such  
23 safeguards are entirely appropriate. Countrywide has not cited, and the Court has not discovered,  
24 any authority to the contrary.

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28           <sup>2</sup> A reasoned disposition denying the motion to strike will be issued as soon as is  
practicable.

**ORDER**

Countrywide's motion for relief from Judge Grewal's order of December 23, 2010 is DENIED.

Dated: March 14, 2011

  
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JEREMY FOGEL  
United States District Judge

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