

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

United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NO. C 08-01515 JW

In re First Franklin Financial Corp.
Litigation

**ORDER OVERRULING PLAINTIFFS’
OBJECTION TO MAGISTRATE’S
DISCOVERY ORDER DATED
JULY 15, 2009**

Presently before the Court is Plaintiffs’ Objections to Magistrate’s Discovery Order Dated July 15, 2009. (Docket Item No. 106.) Defendant First Franklin filed a timely opposition.¹ Plaintiffs filed a timely reply.²

A district court may modify a magistrate judge’s ruling on a non-dispositive matter, such as an order permitting certain discovery, if the order is “clearly erroneous” or “contrary to law.” 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); Bahn v. NME Hospitals, Inc., 929 F.2d 1404, 1414 (9th Cir. 1991). Pursuant to Civil Local Rule 72-2, the court may not grant a motion objecting to a magistrate judge’s order without first giving the opposing party an opportunity to brief the matter. See Civ. L.R. 72-2.

In this case, Plaintiffs object to Judge Lloyd’s order allowing Defendant First Franklin to depose Plaintiffs regarding “any and all conversations and exchanges of information between named

¹ Defendant First Franklin Financial Corporation’s Opposition to Plaintiffs’ Objections. (See Docket Item No. 108.)

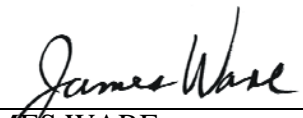
² Reply in Support of Plaintiffs’ Objection to Magistrate’s Discovery Order Dated July 15, 2009. (See Docket Item No. 113.)

1 plaintiff and his or her loan broker” and regarding “income, debts, other assets, and efforts to
2 ‘resolve’ financial problems.” (See Docket Item No. 101.) Judge Lloyd found that information
3 regarding Plaintiffs’ financial condition, specifically with regard to the accuracy and completeness
4 of information in loan applications or otherwise furnished to the loan broker, could be relevant to
5 Plaintiffs’ credibility, each Plaintiff’s suitability to be a class representative, and whether there is
6 sufficient commonality and typicality among the putative class members to support class
7 certification. (Id.) Judge Lloyd also found, in light of the liberal discovery permitted under Federal
8 Rule of Civil Procedure 26(b)(1), that conversations between a named plaintiff and his or her loan
9 broker could be relevant to the merits. (Id.)

10 Upon reviewing the parties’ briefs and Judge Lloyd’s Order, the Court does not find clear
11 error in Judge Lloyd’s determination that such topics are reasonably calculated to lead to the
12 discovery of admissible evidence. Such information and conversations may contain facts about how
13 each borrower was financially situated as well as any misstatements and omissions to loan brokers,
14 which could be relevant to class certification and the merits of the case. Accordingly, the Court
15 **OVERRULES** Plaintiffs’ Objections to Magistrate’s Discovery Order Dated July 15, 2009.

16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: August 21, 2009



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

- 2 Alan Roth Plutzik aplutzik@bramsonplutzik.com
- 3 Andrew S. Friedman afriedman@bffb.com
- 4 Charles Delbaum cdelbaum@nclc.org
- 5 Coty Rae Miller cmiller@csgrr.com
- 6 David S. Reidy dreidy@reedsmith.com
- 7 Donna Siegel Moffa dmoffa@btkmc.com
- 8 Edward W. Ciolko eciolko@btkmc.com
- 9 Gary Edward Klein Klein roddykleinryan.com
- 10 John J. Stoia jstoia@csgrr.com
- 11 Joseph A. Weeden jweeden@sbtclaw.com
- 12 Joseph H. Meltzer jmeltzer@btkmc.com
- 13 Lisa Diane Fialco lisa@chavezgertler.com
- 14 Mark Andrew Chavez mark@chavezgertler.com
- 15 Nance Felice Becker nance@chavezgertler.com
- 16 Peter Anthony Muhic pmuhic@btkmc.com
- 17 Theodore J. Pintar TedP@csgrr.com
- 18 Tyree P. Jones tpjones@reedsmith.com
- 19 Wendy Jacobsen Harrison wharrison@bffb.com

20 **Dated: August 21, 2009**

Richard W. Wieking, Clerk

By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy

21
22
23
24
25
26
27
28