

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

	)	Case No.: 09-CV-01376-LHK
	)	
IN RE WELLS FARGO MORTGAGE-	)	ORDER REGARDING REQUESTS TO
BACKED CERTIFICATES LITIGATION	)	SEAL
	)	

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On May 5, 2011, defendants in this case filed two Administrative Motions to File Under Seal (Dkt. Nos. 400 and 405). In the first-filed motion, Defendant Wells Fargo requests sealing of certain documents that were designated Confidential or Highly Confidential by other defendants (Credit Suisse Securities (USA) LLC and UBS Securities, LLC). In the second-filed motion, all defendants in this action request sealing of information including some information designated Confidential or Highly Confidential by plaintiffs. As the Court has previously held, pursuant to Local Rule 79-5(d), when a party moves to seal documents designated as sealable by another party, the designating party must file a supporting declaration within 7 days, or the sealing motion will be denied. No supporting declaration was filed by any party in response to either of the sealing motions referenced above.<sup>1</sup>

<sup>1</sup> However, defendants did submit supporting declarations regarding sealing of documents designated by defendants as Confidential or Highly Confidential and referenced in Dkt. No. 405. Accordingly, the Court will grant the request to seal as to defendants' designated information for which defendants request sealing in Dkt. No. 405.

1           If any party objects to the public filing of the documents identified in the above-referenced  
2 Administrative Motions to Seal, they shall file a declaration stating the basis for asserting  
3 confidentiality of each exhibit defendants seek to seal. This declaration must be filed **by May 31,**  
4 **2011.** If no declaration is received, the Court will deny the sealing request as to the relevant  
5 documents.

6           The parties are cautioned that designation of documents as Confidential or Highly  
7 Confidential under the Protective Order does not make the documents sealable. To be sealed,  
8 information must be “privileged or protectable as a trade secret or otherwise entitled to protection  
9 under the law,” and the party designating the information as confidential must establish that the  
10 information is sealable.

11           This is the second time that the Court has had to deny a request for sealing due to the failure  
12 of a party to submit a supporting declaration. Perhaps the parties designating the information as  
13 confidential have withdrawn the designation, and their failure to submit supporting declarations  
14 was intentional. If so, the designating parties should file a statement indicating this so that the  
15 parties requesting sealing can amend their sealing requests appropriately. If not, however, the  
16 Court notes that failure to submit supporting declarations impedes the Court’s consideration of  
17 sealing requests and burdens the Court.

18           In the future, if any party fails to timely submit a supporting declaration in response to  
19 another party’s administrative motion to seal information, the Court will simply deny sealing of  
20 information, and it will be made part of the public record per Civil Local Rule 79-5(d).

21           In addition, the Court would appreciate if both parties would indicate proposed redactions  
22 with highlighting (so that proposed redacted text is visible) rather than with marks completely  
23 obscuring the text. This will aid the Court’s review of proposed redactions.

24 **IT IS SO ORDERED.**

25 Dated: May 24, 2011

26   
27 LUCY H. KOH  
28 United States District Judge