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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ELIZABETH ANN WILLIAMS,
Plaintiff,
v.
WELLS FARGO BANK, N.A., et al.,
Defendants.

Case No. [5:13-cv-03387-EJD](#)

**ORDER GRANTING PLAINTIFF'S
MOTION TO BIFURCATE TRIAL, AND
SECOND ORDER RE: MOTIONS IN
LIMINE**

Re: Dkt. Nos. 114, 116, 117, 120, 122, 126,
142

Plaintiff's motion to bifurcate trial (Dkt. No. 142) is GRANTED.

The Court rules on the parties' motions in limine as follows:

1. Defendants' second motion in limine to exclude evidence of special damages because they are inadequately pleaded in the second amended complaint (Dkt. No. 114) is DENIED.
2. Defendants' fourth motion in limine to exclude documents that Plaintiff failed to produce during discovery (Dkt. No. 116) is GRANTED. "If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless." Fed. R. Civ. P. 37(c). Defendants' first motion in limine to exclude evidence of damages that Williams failed to include in her Rule 26 disclosures (Dkt. No. 112) is DENIED AS MOOT.
3. Defendants' fifth motion in limine to exclude evidence or argument about the

1 “ ‘loan modification runaround’ that plaintiff was purportedly subjected to between October 2009
2 and the inception of this action in June 2013” (Dkt. No. 117) is GRANTED.

3 4. Defendants’ seventh motion in limine to exclude evidence or argument related to
4 late fees, accrued interest, or penalties (Dkt. No. 120) is DENIED. During the hearing on this
5 motion, Defendants conceded that this testimony is admissible.

6 5. Defendants’ ninth motion in limine to exclude testimony of Plaintiff’s expert,
7 Douglas Minor (Dkt. No. 122), is GRANTED. The Court finds that the expert testimony is
8 inadmissible because it is based on unreliable methodology. See Fed. R. Evid. 702 (“A witness
9 who is qualified as an expert by knowledge, skill, experience, training, or education may testify in
10 the form of an opinion or otherwise if . . . the testimony is the product of reliable principles and
11 methods.”); see also Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579, 592–93 (1993) (holding
12 that courts must make “a preliminary assessment of whether the reasoning or methodology
13 underlying [expert] testimony is scientifically valid and whether that reasoning or methodology
14 properly can be applied to the facts in issue”). In addition, Plaintiff’s expert’s testimony is
15 inadmissible under Fed. R. Civ. P. 37 because it was not timely produced during discovery.

16 6. Defendants’ tenth motion in limine to exclude as hearsay testimony regarding loans
17 Plaintiff obtained or attempted to obtain from third parties (Dkt. No. 126) is GRANTED IN PART
18 AND DENIED IN PART. Plaintiff may testify about the fact that she obtained or attempted to
19 obtain loans from third parties. However, Plaintiff may not testify about the contents of out-of-
20 court statements made by third parties that relate to her efforts to obtain loans.

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22 **IT IS SO ORDERED.**

23 Dated: July 25, 2017

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EDWARD J. DAVILA
United States District Judge

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