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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

TOBIN et al,)	Civil No. 09-CV-256-DMS(WVG)
)	
Plaintiffs,)	ORDER GRANTING DEFENDANTS' REQUEST
)	FOR SECOND DEPOSITION
v.)	
)	
BC BANCORP et al,)	(Doc. No. 105)
)	
Defendants.)	
)	
)	

On March 3, 2010, at 2:00 P.M. the Court convened a discovery conference. Appearing were Deborah Raymond and Jodi Hansen for Plaintiffs, and Charles Jarrell, for Defendants Wells Fargo Bank, Indy Mac Federal Bank FSB, Elke Poerschke, Deutsche Bank National Trust Company, and US Bank. Jeffrey Benice appeared on behalf of Defendants Loni Hall, Robert Garner, and J & J Lending. Deepika Saluja appeared on behalf of NDEx West LLC. The conference was held on the record. The rulings below reflect the Court's conclusions, ruled on the record, at the discovery conference.

BACKGROUND

Prior to the filing of this suit, in November 2008, Plaintiffs and Defendants were in communication about an impending foreclosure sale of Plaintiffs' residence. Defendant Elke Poerschke wrote an email to Plaintiffs' counsel, Ms. Raymond, that the foreclosure sale was "on hold

1 indefinitely.” Without further notice, Plaintiffs’ home was sold in foreclosure a few months later.

2 In February 2009, Plaintiffs filed suit alleging among other claims, unfair competition,
3 intentional misrepresentation, negligent misrepresentation, intentional infliction of emotional
4 distress, negligent infliction of emotional distress, and breach of contract.

5 Plaintiffs have requested extensive discovery from several Defendants, specifically Wells
6 Fargo Bank, Indy Mac Federal Bank, and Elke Poerschke. Plaintiffs seek to find the true holder of
7 their loan note so that their Truth In Lending Act (“TILA”) claim can run against the proper party.
8 Plaintiffs request extensive discovery into the chain of title of the loan note, performance of bank’s
9 obligations imposed by the Pooling and Servicing Agreement, and seek to verify the paper trail
10 associated with the assignments of their loan, and other paper-intensive detailed inquiries. Plaintiffs
11 fear that without this expensive discovery, they will be estopped from asserting a claim against the
12 true holder of the note, because the purported physical note holder will present evidence of a
13 technical defect in its status as note holder.

14 LEGAL STANDARD

15 The scope of discovery is generally broad. Parties are permitted to discover “any
16 nonprivileged matter that is relevant to any party's claim or defense.” Fed. R. Civ. Proc. 26(b)(1).
17 However, the Court “on motion or on its own, ... must limit the ... extent of discovery ... if it
18 determines that ... the burden or expense of the proposed discovery outweighs its likely benefit.”
19 Fed. R. Civ. Proc. 26(b)(2)(C).

20 DISCUSSION

21 A large majority of Plaintiffs’ discovery requests to Wells Fargo and Indy Mac Bank are
22 solely aimed to discover which entity holds the note associated with Plaintiffs’ loan. At the
23 Discovery Conference, on the record, counsel for Deutsche Bank National Trust Company
24 (“Deutsche”) represented that his client, Deutsche, was the note holder.¹ Because of this
25 representation, the Court concludes that much of Plaintiffs’ discovery is unnecessary and
26 irrelevant, if not duplicative. All inquiries into the Pooling and Servicing Agreement, the chain of

27 ¹

28 Defendant Deutsche Bank National Trust Company first appeared and answered the Second Amended Corrected Complaint on February 11, 2010. Discovery is not yet due.

1 title of the note, tracing assignments of the note, or requests for originals of loan documents are
2 irrelevant if in fact Deutsche Bank will represent at trial that it is the proper note holder and will
3 not claim a technical defect, disqualifying it from its status as note holder.

4 To avoid any confusion on the matter, the Court orders Deutsche to provide a verified
5 response that it is, in fact , holder of the note. This verified response must be provided on or
6 before March 24, 2010. If Deutsche intends to claim that it is not in fact true holder of the note,
7 Deutsche must notify the Court and Plaintiffs by March 17, 2010, and any limitations on Plain-
8 tiffs' search will be reversed so that Plaintiffs may resume discovery calculated to reveal the true
9 holder of their loan note. If during discovery Deutsche learns that it is not holder of the note, it
10 must notify the Court immediately and Plaintiffs' discovery will go forward. Notification must
11 describe when and how Deutsche learned it was not holder, and explain why this information
12 could not be produced earlier. Any delay in notification by Deutsche will be construed by the
13 Court as sanctionable bad faith litigation tactics.

14
15 I. Plaintiffs' Disputes with Defendant Wells Fargo

16 A. Document Production Requests Set One

17 Document Production Request 1

18 Defendant is ordered to identify the documents previously produced that are relevant
19 to the request. Defendant shall identify documents by Bates number and grouped in categories.
20 Defendant must also provide Plaintiffs a list of existing documents that Defendant asserts are
21 irrelevant to the request and has refused to produce.

22
23 Document Production Request 2

24 Defendant is ordered to produce the color copies of the original loan documents,
25 including the promissory note, in a verified response, by Friday March 5, 2010.

26 ///

27 ///

28 ///

1 Document Production Request 3

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 4

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 5

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 6

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 7

18 Defendant is compelled to provide an amended response.

19

20 Document Production Request 8

21 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
22 this case, and accordingly is denied.

23

24 Document Production Request 9

25 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
26 this case, and accordingly is denied.

27 ///

28 ///

1 Document Production Request 10

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 11

6 Plaintiffs withdrew this request.

7

8 Document Production Request 12

9 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
10 this case, and accordingly is denied.

11

12 Document Production Request 13

13 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
14 this case, and accordingly is denied.

15

16 Document Production Request 14

17 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
18 this case, and accordingly is denied.

19

20 Document Production Request 15

21 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
22 this case, and accordingly is denied.

23

24 Document Production Request 16

25 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
26 this case, and accordingly is denied.

27 ///

28 ///

1 Document Production Request 17

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 18

6 Plaintiffs withdrew this request.

7

8 Document Production Request 19

9 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
10 this case, and accordingly is denied.

11

12 Document Production Request 20

13 Defendant represents that responsive documents have been provided. If no additional
14 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
15 to disclose additional responsive documents to the request.

16

17 Document Production Request 21

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 22

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 23

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 24

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 25

6 The request is limited to exclusively log sheets relative to the loan origination and
7 foreclosure. If no responsive documents exist, Defendant is ordered to so state.

8

9 Document Production Request 26

10 The scope of this request is limited to documents reflecting payments made by
11 Plaintiffs on the loan. Defendant is compelled to respond to the limited scope of this request.

12

13 Document Production Request 27

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 28

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 29

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 30

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 31

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4
5 Document Production Request 32

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8
9 Document Production Request 33

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12
13 Document Production Request 34

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16
17 Document Production Request 35

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20
21 Document Production Request 36

22 The Court finds that the burden on Defendants of complying with Plaintiffs' request
23 outweighs the value of the documents sought. Accordingly, Plaintiffs' request is denied.

24
25 Document Production Request 37

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 38

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4
5 Document Production Request 39

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8
9 Document Production Request 40

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12
13 Document Production Request 41

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16
17 Document Production Request 42

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20
21 Document Production Request 43

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24
25 Document Production Request 44

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 45

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4
5 Document Production Request 46

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8
9 Document Production Request 47

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12
13 Document Production Request 48

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16
17 Document Production Request 49

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20
21 Document Production Request 50

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24
25 Document Production Request 51

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 52

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 53

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 54

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 55

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 56

18 Defendant is compelled to respond subject to FRCP 26(a)(1)(D). If no responsive policy
19 exists, Defendant shall so state.

20

21 Document Production Request 57

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 58

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 59

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 60

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 61

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 62

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 63

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 64

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 65

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 66

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 67

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 68

10 Defendant is compelled to respond to the extent that there are powers of attorney
11 relative to the loan origination documents and/or the foreclosure. If none exist, Defendant shall
12 so state.

13

14 Document Production Request 69

15 Defendant is compelled to respond with documents granting authority to sign loan
16 documents relating to loan origination and/or foreclosure. If none exist, Defendant shall so state.

17

18 Document Production Request 70

19 Plaintiffs withdrew this request.

20

21 Document Production Request 71

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 72

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

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1 Document Production Request 73

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 74

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 75

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 76

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 77

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 78

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 79

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

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1 Document Production Request 80

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 81

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 82

10 Defendant is compelled to respond with documents relating to loan origination and/or
11 foreclosure.

12

13 Document Production Request 83

14 Defendant is compelled to respond with all responsive documents relating to the loan
15 origination and foreclosure.

16

17 Document Production Request 84

18 The Court finds that Plaintiffs' request is duplicative , and encompassed within the
19 scope of Document Production Request 20. Accordingly, Plaintiffs' request is denied.

20

21 Document Production Request 85

22 The Court finds that Plaintiffs' request duplicative of the various other requests for
23 production which Defendant has indicated it has produced, or is ordered to produce responsive
24 documents as set forth in this order. Accordingly, Plaintiffs' request is denied.

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1 Document Production Request 86

2 Defendant is obligated and ordered to disclose all documents it intends to use at trial.
3 If responsive documents to these discovery responses are not produced by Defendant, Defen-
4 dant may be precluded from entering such documents at trial.

5

6 Document Production Request 87

7 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
8 this case, and accordingly is denied.

9

10 Document Production Request 88

11 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
12 this case, and accordingly is denied.

13

14 Document Production Request 89

15 Plaintiffs withdrew the request.

16

17 Document Production Request 90

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 91

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 92

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 93

2 Defendant is compelled to respond, with all responsive documents used to determine
3 that the loan was in default.

4

5 Document Production Request 94

6 Defendant is compelled respond with all responsive documents detailing the amount
7 due on the loan on the date of foreclosure.

8

9 Document Production Request 95

10 Defendant is compelled to respond with all responsive documents that provide a
11 monthly accounting of payments made and outstanding, including principle and interest
12 amounts.

13

14 Document Production Request 96

15 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
16 this case, and accordingly is denied.

17

18 Document Production Request 97

19 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
20 this case, and accordingly is denied.

21

22 Document Production Request 98

23 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
24 this case, and accordingly is denied.

25

26 Document Production Request 99

27 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
28 this case, and accordingly is denied.

1 Document Production Request 100

2 Defendant represents that responsive documents have been provided. If no additional
3 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
4 to disclose additional documents responsive to the request.

5

6 Document Production Request 101

7 Defendant represents that responsive documents have been provided. If no additional
8 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
9 to disclose additional documents responsive to the request.

10

11 Document Production Request 102

12 Defendant represents that responsive documents have been provided. If no additional
13 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
14 to disclose additional documents responsive to the request.

15

16 Document Production Request 103

17 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
18 this case, and accordingly is denied.

19

20 Document Production Request 104

21 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
22 this case, and accordingly is denied.

23

24 B.) 30(b)(6) Deposition Notice to Wells Fargo Bank

25 Defendant Wells Fargo must produce a witness able to testify to corporate knowledge
26 on the following topics: 1 - 7; 10; 12, 14; 16- 39; 47 from January 1, 2006 up to the date of filing
27 the lawsuit; and 48.

28

1 II. Plaintiffs' Disputes With Defendant Indy Mac Federal Bank

2 A. Document Production Requests to Defendant Indy Mac

3 Document Production Request 1

4 Defendant is ordered to identify the documents previously produced that are relevant
5 to the request. Defendant shall identify documents by Bates number and grouped in categories.
6 Defendant must also provide Plaintiffs a list of existing documents that Defendant asserts are
7 irrelevant to the request and has refused to produce.

8

9 Document Production Request 2

10 Defendant is ordered to produce the color copies of the original loan documents,
11 including the promissory note, in a verified response, by Friday March 5, 2010.

12

13 Document Production Request 3

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 4

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 5

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 6

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 7

2 Defendant is compelled to provide an amended response.

3

4 Document Production Request 8

5 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
6 this case, and accordingly is denied.

7

8 Document Production Request 9

9 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
10 this case, and accordingly is denied.

11

12 Document Production Request 10

13 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
14 this case, and accordingly is denied.

15

16 Document Production Request 11

17 Plaintiffs withdrew this request.

18

19 Document Production Request 12

20 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
21 this case, and accordingly is denied.

22

23 Document Production Request 13

24 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
25 this case, and accordingly is denied.

26 ///

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28 ///

1 Document Production Request 14

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 15

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 16

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 17

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 18

18 Plaintiffs withdrew this request.

19

20 Document Production Request 19

21 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
22 this case, and accordingly is denied.

23

24 Document Production Request 20

25 Defendant represents that responsive documents have been provided. If no additional
26 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
27 to disclose additional responsive documents to the request.

28

1 Document Production Request 21

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 22

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 23

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 24

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 25

18 The request is limited exclusively to log sheets relative to the loan origination and
19 foreclosure. If no responsive documents exist, Defendant is ordered to so state.

20

21 Document Production Request 26

22 The scope of this request is limited to documents reflecting payments made by
23 Plaintiffs on the loan. Defendant is compelled to respond to the limited scope of this request.

24

25 Document Production Request 27

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 28

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 29

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 30

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 31

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 32

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 33

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 34

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 35

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 36

6 The Court finds that the burden on Defendants of complying with Plaintiffs' request
7 outweighs the value of the documents sought. Accordingly, Plaintiffs' request is denied.

8

9 Document Production Request 37

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 38

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 39

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 40

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 41

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 42

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 43

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 44

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 45

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 46

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 47

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24

25 Document Production Request 48

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 49

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4
5 Document Production Request 50

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8
9 Document Production Request 51

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12
13 Document Production Request 52

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16
17 Document Production Request 53

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20
21 Document Production Request 54

22 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
23 this case, and accordingly is denied.

24
25 Document Production Request 55

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

28

1 Document Production Request 56

2 Defendant is compelled to respond subject to FRCP 26(a)(1)(D). If no responsive policy
3 exists, Defendant shall so state.
4

5 Document Production Request 57

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.
8

9 Document Production Request 58

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.
12

13 Document Production Request 59

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.
16

17 Document Production Request 60

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.
20

21
22 Document Production Request 61

23 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
24 this case, and accordingly is denied.
25

26 Document Production Request 62

27 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
28 this case, and accordingly is denied.

1 Document Production Request 63

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4
5 Document Production Request 64

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8
9 Document Production Request 65

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12
13 Document Production Request 66

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16
17 Document Production Request 67

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20
21 Document Production Request 68

22 Defendant is compelled to respond to the extent that there are powers of attorney
23 relative to the loan origination documents and/or the foreclosure. If none exist, Defendant shall
24 so state.

25
26 Document Production Request 69

27 Defendant is compelled to respond with documents granting authority to sign loan
28 documents relating to loan origination and/or foreclosure. If none exist, Defendant shall so state.

1 Document Production Request 70

2 Plaintiffs withdrew this request.

3
4 Document Production Request 71

5 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
6 this case, and accordingly is denied.

7
8 Document Production Request 72

9 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
10 this case, and accordingly is denied.

11
12 Document Production Request 73

13 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
14 this case, and accordingly is denied.

15
16 Document Production Request 74

17 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
18 this case, and accordingly is denied.

19
20 Document Production Request 75

21 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
22 this case, and accordingly is denied.

23
24 Document Production Request 76

25 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
26 this case, and accordingly is denied.

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1 Document Production Request 77

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 78

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 79

10 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
11 this case, and accordingly is denied.

12

13 Document Production Request 80

14 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
15 this case, and accordingly is denied.

16

17 Document Production Request 81

18 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
19 this case, and accordingly is denied.

20

21 Document Production Request 82

22 Defendant is compelled to respond with documents relating to loan origination and/or
23 foreclosure.

24

25 Document Production Request 83

26 Defendant is compelled to respond with all responsive documents relating to the loan
27 origination and foreclosure.

28

1 Document Production Request 84

2 The Court finds that Plaintiffs' request is duplicative , and encompassed within the
3 scope of Document Production Request 20. Accordingly, Plaintiffs' request is denied.

4

5 Document Production Request 85

6 The Court finds that Plaintiffs' request duplicative of the various other requests for
7 production which Defendant has indicated it has produced, or is ordered to produce responsive
8 documents as set forth in this order. Accordingly, Plaintiffs' request is denied.

9

10 Document Production Request 86

11 Defendant is obligated and ordered to disclose all documents it intends to use at trial.
12 If responsive documents to these discovery responses are not produced by Defendant, Defen-
13 dant may be precluded from entering such documents at trial.

14

15 Document Production Request 87

16 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
17 this case, and accordingly is denied.

18

19 Document Production Request 88

20 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
21 this case, and accordingly is denied.

22

23 Document Production Request 89

24 Plaintiffs withdrew the request.

25

26 Document Production Request 90

27 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
28 this case, and accordingly is denied.

1 Document Production Request 91

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4

5 Document Production Request 92

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8

9 Document Production Request 93

10 Defendant is compelled to respond, with all responsive documents used to determine
11 that the loan was in default.

12

13 Document Production Request 94

14 Defendant is compelled respond with all responsive documents detailing the amount
15 due on the loan on the date of foreclosure.

16

17 Document Production Request 95

18 Defendant is compelled to respond with all responsive documents that provide a
19 monthly accounting of payments made and outstanding, including principle and interest
20 amounts.

21

22 Document Production Request 96

23 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
24 this case, and accordingly is denied.

25

26 Document Production Request 97

27 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
28 this case, and accordingly is denied.

1 Document Production Request 98

2 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
3 this case, and accordingly is denied.

4
5 Document Production Request 99

6 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
7 this case, and accordingly is denied.

8
9 Document Production Request 100

10 Defendant represents that responsive documents have been provided. If no additional
11 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
12 to disclose additional documents responsive to the request.

13
14 Document Production Request 101

15 Defendant represents that responsive documents have been provided. If no additional
16 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
17 to disclose additional documents responsive to the request.

18
19 Document Production Request 102

20 Defendant represents that responsive documents have been provided. If no additional
21 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
22 to disclose additional documents responsive to the request.

23
24 Document Production Request 103

25 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
26 this case, and accordingly is denied.

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28 ///

1 Document Production Request 104

2 Defendant is compelled to produce responsive written procedures, for the time period
3 from January 1, 2006, up to the date of foreclosure.

4
5 Document Production Request 105

6 Defendant is compelled to produce written policies regarding handling of rescission
7 notices for the time period from January 1, 2006, up to and including the date of foreclosure.

8
9 Document Production Request 106

10 Plaintiffs withdrew this request.

11
12 Document Production Request 107

13 Plaintiffs withdrew this request.

14
15 Document Production Request 108

16 Plaintiffs shall contact Defendant for any undecipherable notations in discovery
17 documents. Defendant shall provide Plaintiffs with information sufficient to understand the
18 codes and symbols used in any documentation.

19
20 Document Production Request 109

21 Defendant is compelled to produce written policies regarding document destruction
22 and retention schedules for the time period from January 1, 2006 up to the filing of the current
23 lawsuit.

24
25 Document Production Request 110

26 The Court finds that Plaintiffs' request is irrelevant to the claims against Defendant in
27 this case, and accordingly is denied.

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B. 30(b)(6) Notice To Defendant IndyMac Bank

Under rule 30(b)(6) IndyMac must produce a witness to testify as to the corporation's knowledge on the following topics: 1 - 7, 10, 12, 14, 16 - 48 up to the time of the foreclosure, 49, 50 - 52, 53 for the time period of January 1, 2006 up to the date of filing the current lawsuit, and 54.

III. Plaintiffs' Discovery Disputes With Elke Poerschke

A.) Document Production Requests

Document Production Request 1

Defendant represents that responsive documents have been provided. If no additional responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered to disclose additional responsive documents to the request.

Document Production Request 2

Defendant represents that responsive documents have been provided. If no additional responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered to disclose additional responsive documents to the request.

Document Production Request 3

Defendant represents that responsive documents have been provided. If no additional responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered to disclose additional responsive documents to the request.

Document Production Request 4

Defendant represents that responsive documents have been provided. If no additional responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered to disclose additional responsive documents to the request.

1 Document Production Request 5

2 Defendant represents that responsive documents have been provided. If no additional
3 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
4 to disclose additional responsive documents to the request.

5

6 Document Production Request 6

7 Defendant represents that responsive documents have been provided. If no additional
8 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
9 to disclose additional responsive documents to the request.

10

11 Document Production Request 7

12 Defendant represents that responsive documents have been provided. If no additional
13 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
14 to disclose additional responsive documents to the request.

15

16 Document Production Request 8

17 Defendant represents that responsive documents have been provided. If no additional
18 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
19 to disclose additional responsive documents to the request.

20

21 Document Production Request 9

22 Defendant represents that responsive documents have been provided. If no additional
23 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
24 to disclose additional responsive documents to the request.

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1 Document Production Request 10

2 Defendant represents that responsive documents have been provided. If no additional
3 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
4 to disclose additional responsive documents to the request.

5

6 Document Production Request 11

7 Defendant represents that responsive documents have been provided. If no additional
8 responsive documents are remaining, Defendant shall so state. Otherwise, Defendant is ordered
9 to disclose additional responsive documents to the request.

10

11 Document Production Request 12

12 To the extent that documents exist that are generated in electronic format that are
13 responsive to Document Production Requests 1 -11, these documents shall be produced. If there
14 are no responsive documents, Defendant shall so state.

15

16 Document Production Request 13

17 Defendant is compelled to respond to the extent that there are non privileged notes
18 regarding Plaintiffs' loan.

19

20 Document Production Request 14

21 The Court finds that Plaintiffs' request is duplicative of the previous 13 requests, and
22 accordingly is denied.

23

24 Document Production Request 15

25 The Court finds that Plaintiffs' request is duplicative of the Requests For Production 1-
26 13, and accordingly is denied.

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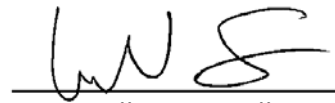
B.) Deposition of Elke Poerschke

The parties represent that there is no dispute regarding Ms. Poerschke's deposition.

IV. Timing of Discovery Requests

Defendants have until April 5, 2010 to provide supplemental responses, consistent with the orders of the Court as provided herein.

DATED: March 12, 2010



Hon. William V. Gallo
U.S. Magistrate Judge