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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 ATLEY HENRY, LAURA HENRY,  
12 Plaintiff,  
13 v.  
14 OCWEN LOAN SERVICING, LLC, et  
15 al.,  
16 Defendants.

Case No.: 3:17-cv-688-JM-NLS

**ORDER ON JOINT MOTION FOR  
DETERMINATION OF DISCOVERY  
DISPUTE NO. 2**

[ECF No. 39]

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18 Before the Court is the parties' Joint Motion for Determination of Discovery  
19 Dispute No. 2. ECF No. 39. Plaintiff Laura Henry ("Plaintiff") moves to compel  
20 additional documents from defendant Ocwen Loan Servicing, LLC ("Defendant"). Id. at 1.

21 **I. BACKGROUND**

22 This case arises from a home loan modification and alleges breach of contract and  
23 violations of the Fair Credit Reporting Act, Fair Debt Collection Act, and similar state  
24 statutes. ECF No. 1. Plaintiff propounded Requests for Production of Documents on  
25 December 20, 2017. ECF No. 39 at 3. Defendant requested and was given an extension  
26 of time to respond, until February 21, 2018. Id. at 8. As the deadline for responses drew  
27 closer, Defendant requested an additional extension, which Plaintiff at first appeared to  
28 be agreeable to and then clearly denied as of February 19, two days prior to the response

1 deadline. *Id.* Defendant timely provided initial responses on February 21, 2018 that  
2 contained objections only and did not include a document production at that time. *Id.*  
3 Plaintiff's counsel began the meet and confer process, and Defendant agreed to produce  
4 documents by March 16, 2018. *Id.* at 4-5. On March 13, 2018, Defendant produced  
5 upwards of 1500 pages of documents as well as supplemental responses.<sup>1</sup> *Id.* at 5, 9.

6 Plaintiff reviewed the production and prepared its portion of the Joint Motion.  
7 ECF No. 39 at 5. Defendant argues Plaintiff failed to properly meet and confer following  
8 Defendant's supplemental responses and production, but nonetheless prepared its portion  
9 of the Joint Motion. *Id.* at 10.

10 It is clear to the Court after reviewing the Joint Motion and Joint Statement (Ex. A)  
11 that Plaintiff did not adequately meet and confer following Defendant's supplemental  
12 responses and production. However, it also not clear to the Court that ordering a further  
13 meet and confer will be productive for most of the requests, and so addresses Plaintiff's  
14 arguments.

## 15 **II. DISCUSSION**

16 Plaintiff's motion to compel identifies four issues as problematic, paraphrased as  
17 follows: (1) the responses provided did not identify which documents were responsive to  
18 which request; (2) documents were withheld pending entry of a protective order; (3)  
19 documents contained redactions without explanation; and (4) no privilege log was  
20 provided. ECF No. 39 at 2. Plaintiff does not dispute that 1500 pages of responsive  
21 documents were produced. *Id.* at 5.

### 22 **A. Defendant's Responses**

23 Plaintiff argues Defendant's responses are deficient because they do not correlate  
24 responsive documents to specific requests. ECF No. 39 at 12. Defendant correctly points  
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26  
27 <sup>1</sup> Defendant withheld some documents subject to entry of a protective order. *Id.* at 9. Since the time the  
28 parties submitted this joint motion, the Court has entered a protective order. ECF No. 44. It is not clear  
whether Defendant has since produced the documents withheld until a protective order was in place.

1 to Rule 34’s disjunctive nature: documents may be produced as they are ordinarily kept  
2 or corresponding to the categories of the request. ECF No. 39 at 17. Particularly in light  
3 of the limited scope of this case, and relatively small number of documents involved, the  
4 Court sees no reason (and Plaintiff points to none) that Defendant should be compelled to  
5 identify precisely which documents are responsive to each request.

### 6 **B. Privilege Log and Redactions**

7 Plaintiff argues—in only its introduction—that no privilege log was provided and  
8 that redactions were made to documents without production of privilege log. ECF No. 39  
9 at 2-3. As to the matter of a privilege log, Defendant responds that no documents were  
10 withheld on the grounds of privilege so no privilege log is necessary. Plaintiff fails to  
11 show any reasonable basis to believe otherwise responsive documents were withheld on  
12 the basis of privilege and so fails to satisfy her burden. There is nothing left to compel.

13 As to the redactions, Defendant also explains that redactions were made solely to  
14 “confidential information, such as portions of the loan number, social security numbers  
15 and birth dates, which it routinely redacts for confidentiality purposes and for ease of use  
16 of the Bate[s] stamped documents in public filings and trial.” Id. at 6. Plaintiff argues  
17 that a privilege log is necessary for Plaintiff to evaluate what privilege or confidentiality  
18 is being asserted and whether that assertion is proper. ECF No. 39 at 3.

19 The Court will not require a redaction log for the redaction of plainly confidential  
20 information such as account numbers, social security numbers, birthdates or addresses.  
21 Not only is redaction of this information responsible, it is common practice and brings  
22 the documents into compliance with the Southern District’s ECF Policies and Procedures,  
23 §1.h (“...parties must refrain from including, or must partially redact where inclusion is  
24 necessary, the following personal identifiers from all pleadings and documents filed with  
25 the court, including exhibits thereto: 1. Social Security numbers ... 4. Financial account  
26 numbers ... 5. Home address....”). Moreover, where these documents were produced to  
27 Plaintiff prior to the time a protective order was place, the redaction of confidential  
28 information is particularly appropriate. However, if Plaintiff has a good faith reason to

1 believe the redactions included information other than “confidential information, such as  
2 portions of the loan number, social security numbers and birth dates” as the Defendant  
3 suggests, the Plaintiff must, in writing, (1) identify by Bates stamp number the  
4 redaction(s) in question, (2) clearly articulate the good faith basis for any belief that other  
5 than confidential information was redacted. Upon receipt of any challenge, Defendant is  
6 **ORDERED** to meet and confer regarding that content and to settle the dispute may re-  
7 produce any challenged documents under the protective order.

### 8 **C. Document Requests**

9 Plaintiff’s motion purports to move to compel additional documents in response to  
10 nearly every request issued (Nos. 1-27, 31-36, 38-45), but does not identify any  
11 documents or categories of documents believed to be withheld or missing in response to  
12 any requests, apart from those that Defendant indicated would be produced subject to a  
13 protective order.

14 Defendant responds that all relevant documents have been produced, or would be  
15 under a protective order. See ECF No. 39 at 16 (“Ocwen’s production included its  
16 communications with Plaintiffs, Plaintiffs’ counsel, the Consumer Financial Protection  
17 Bureau, a copy of its title insurance policy, the loan documents, recorded documents and  
18 credit reports on Plaintiffs”).

19 Plaintiff’s portion of the Joint Statement for each request simply argues that each  
20 request seeks relevant documents. See ECF No. 39, Ex. A. Defendant’s responses  
21 largely fall into three categories: First, that Defendant has produced responsive  
22 documents and the motion to compel is moot. See ECF No. 39 Ex. A, (Requests 1-21,  
23 27, 31-33). The second category of responses points to a potential confusion between a  
24 Better Business Bureau complaint, for which Defendant states it was unable to locate any  
25 responsive documents, and a complaint with the Consumer Financial Protection Bureau,  
26 for which documents were produced. ECF No. 39 Ex. A, (Requests 34-36, 39-41, 43-  
27 45). The third and final category of responses largely indicate that some documents were  
28

1 produced, and confidential servicing notes would be produced under a protective order.  
2 See ECF No. 39 Ex. A, (Request Nos. 22-26, 38, 42).

3 For those requests that fall into the first category, Defendant produced documents  
4 in response to Plaintiff's requests. Plaintiff does not satisfactorily identify any basis to  
5 believe the production was incomplete or inadequate. Plaintiff's motion to compel is  
6 **DENIED** as to Requests 1-21, 27, 31-33.

7 For the requests in the second category, Defendant represents that it searched for  
8 documents related to a Better Business Bureau complaint and was unable to locate any.  
9 Defendant also represents it produced documents reflecting a Consumer Financial  
10 Protection complaint. It appears there is nothing left to compel. Having searched for and  
11 found no documents relating to the Better Business Bureau, Defendant properly produced  
12 the documents it believed to be the target of the request. Plaintiff's motion to compel is  
13 **DENIED** as to Requests 34-36, 39-41, 43-45.

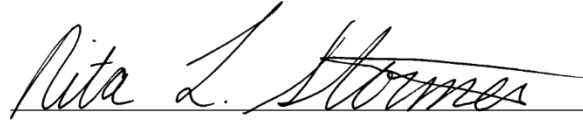
14 As to the remaining requests in the third category, Requests 22-26, 38, 42, for  
15 which additional responsive documents may have been produced under the protective  
16 order, the Court **ORDERS** the parties to meaningfully meet and confer regarding any  
17 supplemental production since the entry of a protective order. If they have not already  
18 been produced, the confidential servicing notes that Defendant represented would be  
19 produced under a protective order must be produced by no later than **May 1, 2018**. It  
20 appears likely to the Court that production of documents under the protective order  
21 renders the remaining requests in this category moot as well. However, if following the  
22 meet and confer, Plaintiff is able to identify a document or category of documents  
23 missing or believed to be missing from Defendant Ocwen's production, Plaintiff may file  
24 a supplemental brief identifying (1) which of these specific document request is at issue,  
25 (2) what responsive documents or type of documents that have not been produced; and  
26 (3) the basis for any belief that those documents exist in Defendant's possession, custody,  
27 and control and were not produced.  
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1           **D. Attorneys' Fees**

2           Plaintiff's request for an award of attorneys' fees is **DENIED**.

3           **IT IS SO ORDERED.**

4 Dated: April 17, 2018



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6           Hon. Nita L. Stormes

7           United States Magistrate Judge

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