

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CITIMORTGAGE, INC.)	
)	
Plaintiff,)	
)	
v.)	No. 4:09 CV 1909 DDN
)	
JUST MORTGAGE, INC.,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This action is before the court on the motions of defendant Just Mortgage, Inc. for an extension of time (Doc. 128) and to compel (Doc. 131) and the motion of plaintiff Citimortgage, Inc. to strike (Doc. 133). A hearing was held on December 13, 2011.

In its motion to compel, defendant seeks to compel further response to Interrogatory No. 4 and production of documents as to Requests for Production Set One, Nos. 7, 17, and 36; Set Two, Nos. 63 and 86; and Set Three, No. 20. (Doc. 131.)

In Interrogatory No. 4, defendant seeks to compel plaintiff to identify which provisions of the CMI Manual plaintiff determined defendant breached, thereby giving rise to plaintiff's demand to cure or repurchase the Group 1 Loans. (Doc. 131-1, Ex. A at 3-4.) The parties agree that the CMI Manual is incorporated into the parties' Agreement. Because the propriety of plaintiff's demand to cure or repurchase is relevant, plaintiff must identify which provisions of the CMI Manual, if any, it determined defendant breached which gave rise to its demand to cure or repurchase the Group 1 Loans.

In Request for Production Set One, No. 36, defendant seeks production of documents related to plaintiff's policies for servicing the Group 1 Loans. (Doc. 131-2, Ex. B at 11.) Because these documents are not relevant and because defendant already has the actual Group 1 Loan servicing records, defendant's motion to compel production of these documents is denied.

In the remaining Requests for Production, defendant seeks documents from Sharepoint, a website maintained by plaintiff that holds policy and procedure documents regarding repurchase demands. (Doc. 131-3, Ex. C at 5, 9-10; Doc. 131-4, Ex. D at 3, 11; Doc. 131-5, Ex. E at 9.) The requested documents fall into two categories: (1) documents related to plaintiff's determinations whether to demand cure or repurchase of the Group 1 Loans; and (2) documents related to plaintiffs' procedures following demands by third-party investors for plaintiff to repurchase loans. Plaintiff has agreed to produce the Sharepoint documents related to its determinations whether to demand cure or repurchase of the Group 1 Loans. The documents regarding plaintiff's procedures for responding to third-party investor repurchase demands are not relevant to plaintiff's claims or defendant's possible defenses. Therefore, the motion to compel is sustained as to the Sharepoint documents concerning plaintiff's determinations whether to demand cure or repurchase of the Group 1 Loans, but denied as documents concerning its procedures following repurchase demands from third-party investors.

For these reasons,

IT IS HEREBY ORDERED that the motion of defendant Just Mortgage, Inc. for an extension of time (Doc. 128) is denied as moot.

IT IS FURTHER ORDERED that the motion of plaintiff Citimortgage, Inc. to strike (Doc. 133) is denied as moot.

IT IS FURTHER ORDERED that the motion of defendant to compel (Doc. 131) is sustained in part and otherwise denied, in that, not later than December 20, 2011, plaintiff shall disclose to the defendant

- a. the provisions of the CMI Manual, if any, it determined defendant breached which gave rise to plaintiff's demand that defendant cure or repurchase the Group 1 Loans; and
- b. the Sharepoint documents related to plaintiff's determinations whether to demand cure or repurchase of the Group 1 Loans.

/s/ David D. Noce
UNITED STATES MAGISTRATE JUDGE

Signed on December 15, 2011.