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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LINDA DOWNS,

Plaintiff,

v.

RIVER CITY GROUP, LLC, et. al.,

Defendants.

3:11-cv-00885-LRH-WGC

ORDER

Re: Remaining Downs-Wells Fargo
Discovery Dispute

The court issues this Order with respect to the remaining discovery dispute between Plaintiff Linda Downs (Downs) and defendant Wells Fargo Bank, N.A. (Wells Fargo).¹

I. BACKGROUND

The facts and procedural history leading up to the issuance of this Order are set forth in Judge Hicks' September 17, 2014 order (Doc. # 257)², and the undersigned's September 24, 2014 order on remand (Doc. # 258). In accordance with the court's order on remand, Downs and Wells Fargo have submitted memoranda outlining the remaining areas of dispute concerning discovery between them. (Doc. # 265 (Downs); Docs. # 266, #266-1³ (Wells Fargo).) They identified the following areas that remain in dispute: (1) Wells Fargo's alleged failure to prepare its Rule 30(b)(6) designees, including Jessica Jones (Jones) and Luann Tupa (Tupa); (2) Wells Fargo's alleged failure to produce documents identified in various Rule 30(b)(6) depositions; (3) Wells Fargo's purported deficient responses to written discovery, including interrogatories and requests for production of documents; (4) Wells Fargo's alleged failure to provide adequate privilege logs;

¹ A separate order was entered concerning the remaining discovery dispute between Downs and Minnesota Life Insurance Company (Minnesota Life). (Doc. # 267.)

² Refers to court's docket number.

³ Doc. # 266-1 consists of 762 pages of documents Wells Fargo represents it has produced to Downs. (See Doc. # 266 at 2-3.)

1 and (5) the alleged failure of Wells Fargo to produce documents related to the Dollens case. The
2 court will now summarize the positions of the parties and provide its analysis and direction with
3 respect to these remaining discovery issues.

4 **II. PREPARATION OF RULE 30(b)(6) DESIGNEES**

5 Downs argues that Wells Fargo failed to adequately prepare its designated Rule 30(b)(6)
6 witnesses, Jones and Tupa for their depositions. (Doc. # 265 at 1-2.) Downs asserts that the
7 witnesses were unprepared at their first depositions that took place on November 14 and 15,
8 2012, and were still unprepared at their second depositions on February 1, 2013. (Id.)

9 Wells Fargo contends that the lack of knowledge on the part of any witness was based on
10 questions that were beyond the scope of the deposition notice, and when a witness did not have
11 answers to questions, they were supplied by another witness. (Doc. # 266 at 2.) Wells Fargo
12 asserts that it produced three 30(b)(6) witnesses who provided more than seventeen hours of
13 deposition testimony and Downs' dislike for their testimony does not mean they were
14 unprepared. (Id.)

15 **A. Jones Depositions**

16 Wells Fargo designated Jones to testify regarding the following topics: (1) foreclosure
17 process; (b) the payment protection policy; (c) policies and procedures, internal auditing, quality
18 control and training; (d) loss mitigation; (e) records retention, phone logs, and technology; and
19 (f) miscellaneous items. (Doc. # 265 at 1-2.) Downs identifies various areas of purported
20 deficiency with respect to Jones' depositions.

21 First, Downs argues that Jones could not speak to and did not know the specific
22 guidelines Wells Fargo followed/used in this matter. (Doc. # 265 at 2.) She asserts that Paul
23 Goers, a Wells Fargo employee told others at Wells Fargo investigating the Downs' claim that
24 the "Investors and Foreclosure" group's rules governed when and if a loan could go into
25 foreclosure, but these rules were not disclosed by Jones or produced by Wells Fargo. (Id. at n. 2.)

26 In her deposition, Jones testified that Wells Fargo utilized the note, deed of trust, and
27 Freddie Mac guidelines in order to service the subject loan. (Doc. # 235-2 at 5-8, Feb. 1, 2013
28 Jones Depo. at 13-16.) Jones testified that the Freddie Mac guidelines Wells Fargo followed are

1 publicly available on Freddie Mac's website. (Id.) While counsel tried to ask Jones what specific
2 guidelines were utilized in servicing the loan, it was Jones' testimony that Wells Fargo serviced
3 the loan utilizing all of the Freddie Mac guidelines. (Id.) If Downs had a question about the use
4 of a specific guideline, she could have posed more specific questions, but chose not to. While
5 Downs now argues that some other rules were utilized in determining whether a loan could go
6 into foreclosure, i.e., the Investor and Foreclosure group's rules, that was not Jones' testimony.
7 Downs does not state what other information she seeks to gain from this witness on this topic. As
8 such, there does not appear to be any further basis for examining this witness regarding this
9 issue.

10 Second, Downs claims that Jones did not know who created the timeline on WELLS
11 1681 and could not answer questions regarding the timeline. (Doc. # 265 at 2.) Wells Fargo is
12 correct that Tupa testified that she herself created the timeline. Downs had an opportunity to
13 question Tupa, the author of the timeline, about the document. Therefore, there is no basis to
14 compel any further testimony from Jones on this subject.

15 Third, Downs contends Jones did not know anything about the Foreclosure Overview
16 found on WELLS 1733 and did not know about prior versions of the document. (Doc. # 265 at
17 2.) Wells Fargo argues that Jones testified that Wells Fargo authored the Foreclosure Overview,
18 and while she did not know if there were prior versions of the document, this is immaterial as
19 Downs did not ask Jones any further questions about the document. (Doc. # 235 at 6.)

20 Downs' counsel did ask Jones several substantive questions about the document in her
21 second deposition. (See Doc. # 192-1 at 8, Feb. 1, 2013 Jones Depo. at 22 -29.) Downs does not
22 explain how this document (or any other version of it) is relevant to her remaining claims or
23 what else she intends to elicit from this witness concerning this document. As such, the court
24 finds no basis for compelling further testimony on this subject.

25 Fourth, Downs states that Jones did not know how the deed of trust was used to service
26 the Downs' loan. (Doc. # 265 at 2.) Again, Jones testified that the terms of the deed of trust,
27 along with the Freddie Mac guidelines, were used in servicing the loan. Downs does not explain
28 what further testimony she expects to elicit from this witness on this topic or how it is relevant to

1 her remaining claims. Accordingly, the court will not permit further examination of Jones on this
2 issue.

3 Finally, Downs takes issue with the fact that Jones could not answer why Wells Fargo
4 filed a notice of sale after it closed the foreclosure in November of 2011. (Doc. # 265 at 2.) Wells
5 Fargo explains that Jones and Wells Fargo would not have had this information because MTC
6 Financial, not Wells Fargo, executed and recorded the notice of sale. (Doc. # 235 at 7-8.) In light
7 of this, the court agrees that Downs should have obtained this information from MTC Financial,
8 and not Wells Fargo.

9 **B. Tupa Depositions**

10 Tupa was designated to testify regarding communications with Minnesota Life. (Doc. #
11 265 at 2.) Downs identifies several ways in which Tupa was allegedly unprepared.

12 First, Downs asserts that Tupa did not know what timeline Paul Goers was referencing
13 with regards to the timeline provided by Optional Services (Tupa's department). (Doc. # 265 at
14 2.) This is belied by Tupa's own testimony, where she stated that she believed that WELLS 1681
15 is the timeline that she created and sent in the email to Paul Goers, which Goers discussed in his
16 email at WELLS 538. (Doc. # 235-1 at 5, Feb. 1, 2013 Tupa Depo. at 7:3-17.) Therefore, there is
17 no basis for compelling further examination on this topic.

18 Second, Downs claims that Tupa did not know why some of the Minnesota Life
19 payments were sent back to Downs. (Doc. # 265 at 2.) Wells Fargo points out that Jones testified
20 extensively on this topic. (Doc. # 235 at 8.) It is true that Jones was questioned and did provide
21 some testimony on this topic. (See, e.g., Doc. # 110-4 at 16-17, Nov. 14, 2012 Jones Depo. at
22 254-260.) At Jones' November 14, 2012 deposition Wells Fargo's counsel did represent that Tupa
23 would testify as to the process Wells Fargo may have had in place at the time the payments were
24 received from Minnesota Life. (Id., Jones Depo. at 260:3-11.)

25 Tupa testified that the foreclosure department sent funds back to the mortgagor that were
26 the claim check funds, and when she was asked why they sent the payments back, Tupa testified
27 that it was done by the foreclosure department and that question would have to be posed to them.
28 (Doc. # 110-6 at 28, Nov. 15, 2012 Tupa Depo. at 104:5-16.) After receiving this response,

1 counsel moved on from this line of questioning. (Id.) Later in the deposition, the discussion
2 returned to this topic. Tupa testified regarding application of the funds: "Our department
3 received the check, sent the funds to Cash, asked them to make the mortgage payments. They
4 and Foreclosure had processes that they need to follow. I believe those funds were sent back to
5 the mortgagor." (Doc. # 110-7 at 3, Nov. 15, 2012 Tupa Depo. at 134:1-7.) She was then asked
6 why the funds were sent back to the mortgagor, and testified again that question would have to
7 be addressed with the foreclosure department. (Id. at 134:8-14.) When counsel asked whether
8 there would be another Rule 30(b)(6) witness to testify as to this issue, Wells Fargo's counsel
9 indicated that the Rule 30(b)(6) witness who would testify as to that topic was Jones, who had
10 testified the day before. (Id. at 134:15-18.) Downs' counsel then moved on to another line of
11 questioning. Tupa was asked this same question later on in the deposition, and responded,
12 consistent with her previous responses, that Downs would have to ask the foreclosure department
13 why payments were returned to Downs. (Id. at 231:19-25, 234:25-235:6.)

14 Downs then deposed both Jones (who was designated as to foreclosure issues) and Tupa
15 again in February 2013. In her second deposition, Jones testified that some funds received from
16 Minnesota Life were returned (and not applied to the loan). (Doc. # 192-1 at 20, Feb. 1, 2013
17 Jones Depo. at 72:6-10, 17-21.) Downs' counsel was afforded the opportunity to ask Jones, who
18 had been designated on the topic of foreclosure, and identified by Tupa as the person who would
19 have knowledge on this topic, why the payments were sent back to Downs. Downs' counsel did
20 not do so. In light of this, the court is not inclined to allow further examination on this topic.

21 **III. DOCUMENTS IDENTIFIED DURING RULE 30(b)(6) DEPOSITIONS BUT NOT**
22 **PRODUCED**

23 Downs contends that various documents were identified or referenced in the Rule
24 30(b)(6) depositions, but were not produced by Wells Fargo, including the following:

25 (1) "OQM" e-mail of the "5-10" notes to Wells Fargo employee "M. Thomas"; (2) e-mails and
26 attachments to and from Tupa and Jones; (3) e-mails and letter logs and collection notes
27 referenced in Jones' deposition; (4) evidence of the "corrupted phone call" between Downs and
28

1 Wells Fargo⁴; (5) the checks/correspondence sent to "Cash", including e-mails and
2 correspondence included with those reports as referenced in Tupa's deposition; (6) the "P112
3 Report" along with related correspondence; (7) the Optional Product Payment Reports and
4 Optional Product Maintenance Reports; (8) documentation of discussions had regarding the
5 "process gap"; (9) e-mails to and from Shannon Eckert and Renee Biernat with attached copies
6 of the direct mail kit previously used for the "Secure 12" product and other materials and
7 information related to this including a master confidentiality agreement; (10) the exact e-mail kit
8 sent to Downs. (Doc. # 265 at 3.)⁵

9 Wells Fargo asserts that it has produced all of the documents Downs contends have not
10 been produced, or has withheld them on privilege grounds. (Doc. # 266 at 2-3.) Wells Fargo has
11 provided a table listing categories of documents either produced or withheld on privilege
12 grounds, and has attached an exhibit consisting of 762 pages of documents it has produced. (Doc.
13 # 266 at 2-3; Doc. # 266-1.) The court notes that Wells Fargo's memorandum indicates that the
14 documents regarding the "process gap" and post-litigation e-mail communications between Jones
15 and Tupa and Shannon Eckert and Renee Biernat are privileged, and will be covered in a
16 supplemental privilege log. (Doc. # 266 at 3.)

17 Downs is directed to provide a statement to the court within the timeframe prescribed
18 below addressing whether this issue has been resolved, and what documents, if any, remain to be
19 produced. Prior to submitting this statement, if any areas of dispute remain, the parties are
20 directed to engage in a meaningful meet and confer to attempt to resolve the dispute.

21 **IV. INTERROGATORIES**

22 Downs claims that Wells Fargo failed to respond to interrogatories 10, 12 and 18. (Doc.
23 # 265 at 4.)

24 Wells Fargo argues that Downs' assertion that Wells Fargo did not respond to

25
26 ⁴ According to Downs, Wells Fargo has represented that this document would be
27 produced, but had not been as of the date of the filing of her memorandum. (Doc. # 265 at 3 n.
3.)

28 ⁵ There were additional items identified by Downs (timeline Debra Douglas prepared on
behalf of Wells Fargo, e-mail and attached timeline from Tupa to Goers, and "Optional Product
Check" spreadsheet) that Wells Fargo has since produced. (See Doc. # 265 at 3 n. 4, n. 5, n. 6.)

1 interrogatories 10, 12, and 18 is incorrect, and in reality, Downs simply does not like the
2 responses received. (Doc. # 266 at 3.)

3 Interrogatory 10 asks Wells Fargo to: "State whether the federal government has a
4 financial interest in the Note by way of underwriting, guarantee, indemnification or ownership."
5 (Doc. # 192-4 at 8.) Wells Fargo responded:

6 Objection- this interrogatory requests information that is not reasonably
7 calculated to lead to discovery of admissible evidence. Wells Fargo also objects to
8 this interrogatory as vague and ambiguous because it is not clear what plaintiff
9 means by "the federal government" or "a financial interest in the Note by way of
10 underwriting, guarantee, indemnification or ownership."

11 Subject to and without waiving these objections, Wells Fargo states that
12 the Federal Home Loan Mortgage Corporation is the investor for the loan the
13 Note evidences.

14 Discovery is continuing, and Wells Fargo reserves the right to supplement
15 this response in the event that further relevant facts become available.

16 (Doc. # 192-4 at 8.)

17 In her prior motion to compel, Downs argued: "[Wells Fargo has failed to describe the
18 Federal Home Loan Mortgage Corporation's interest in the "Note." Merely stating that it is an
19 investor means nothing.]" (Doc. # 222 at 6.) Wells Fargo contends that this response clearly
20 discloses that Freddie Mac is the owner of the loan. (Doc. # 235 at 9.) The response says that
21 "the Federal Home Loan Mortgage Corporation is the investor for the loan," but does not state
22 that it owns the loan. Wells Fargo shall supplement its response to Interrogatory 10 to reflect its
23 representation that Freddie Mac is the owner of the loan (as stated in Doc. # 235 at 9).

24 Interrogatory 12 asks Wells Fargo to: "State all state and federal pre-suit default
25 prevention procedures you undertook prior to this action." (Doc. # 192-4 at 8.) Wells Fargo
26 responded:

27 Objection - this interrogatory requests information that is not reasonably
28 calculated to lead to discovery of admissible evidence. This interrogatory is also
vague and ambiguous, particularly because it is not clear what plaintiff means by
"state and federal pre-suit default prevention procedures."

Subject to and without waiving these objections, Wells Fargo states that it
is the borrower's responsibility to avoid default.

Discovery is continuing, and Wells Fargo reserves the right to supplement
this response in the event that further relevant facts become available.

(Doc. # 192-4 at 8.)

This response does not answer the question posed. Wells Fargo shall supplement its
response to Interrogatory 12. If Wells Fargo is not clear as to what type of state and federal pre-

1 suit default prevention procedures Downs is referring to, it shall meet and confer with Downs to
2 clarify what she means.

3 Interrogatory 18 asks Wells Fargo to: "State the relationship between Wells Fargo and
4 Minnesota Life Insurance Company, including when the relationship began and ended." (Doc.
5 # 192-4 at 13.) Wells Fargo responded:

6 Objection - this interrogatory requests information that is not reasonably
7 calculated to lead to discovery of admissible evidence. This interrogatory is also
8 vague and ambiguous, particularly because it is not clear what plaintiff means by
9 "the relationship between Wells Fargo and Minnesota Life Insurance Company."
10 In addition, this interrogatory calls for information that is protected by the
11 attorney-client privilege and/or the attorney work product doctrine. Wells Fargo
12 also objects to this interrogatory because it is compound, overbroad and unduly
13 burdensome.

14 Subject to and without waiving these objections, Minnesota Life
15 underwrote a group monthly benefit mortgage life insurance policy for Wells
16 Fargo. The group policy number is 400752-G.

17 Discovery is continuing, and Wells Fargo reserves the right to supplement
18 this response in the event that further relevant facts become available.

19 (Doc. # 192-4 at 14.)

20 Wells Fargo gives an adequate description of its relationship with Minnesota Life, but the
21 response is incomplete because it does not state when its relationship with Minnesota Life began
22 and ended. Wells Fargo shall supplement its response to Interrogatory 18 to provide this
23 information.

24 **V. REQUESTS FOR PRODUCTION OF DOCUMENTS**

25 As to the requests for production of documents, Downs contends Wells Fargo's responses
26 to the following requests are deficient: 1, 2, 6, 8, 9, 10, 15, 16, 17, 20, 21, 22, 24, 25, 26, 27, 28,
27 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 44, 45, 46, 47, 48, 51, 52, 53, 54, 55, 56, 61, 63,
28 64, 65, 66, 68, 70, 71, 72 and 75. (Doc. # 265 at 4-9.)

29 **A. Preliminary Findings**

30 The requests and their responses can be found in Doc. # 192-5, and requests 1, 2, 6, 8, 9,
31 10, 15, 16, 17, 20, 21, 22, 24-33 (those for which Downs provides a specific argument), are
32 repeated here for convenience and reference in the discussion. Preliminarily, the court finds that
33 Wells Fargo's reference to the universe of documents it has produced in response to a particular
34 request is insufficient. Federal Rule of Civil Procedure 34(b)(2)(E)(i) states that documents must
35 be produced "as they are kept in the usual course of business or [the responding party] must

1 organize and label them to correspond to the categories in the request[.]" "This rule 'is meant to
2 prevent a party from obscuring the significance of documents by giving some structure to the
3 production.'" American General Life Ins. Co. v. Vistana Condominium Owners Ass'n, 2014 WL
4 2041950 (D. Nev. May 16, 2014) (quoting City of Colton v. Am. Promotional Events, Inc., 277
5 F.R.D. 578, 584 (C.D. Cal. 2011)). "Therefore, the production must be rationally organized to
6 enable the parties to determine if responsive documents have been produced." Id.

7 The court has not been provided information as to whether Wells Fargo produced its
8 documents as they are kept in the ordinary course of business; however, Wells Fargo's responses
9 that refer to nearly 3000 documents produced do nothing to aid Downs in determining which
10 documents are responsive to a particular request, and therefore, whether or not the production is
11 sufficient. While Wells Fargo contends that it had an agreement with Downs to respond in this
12 manner, it has provided no evidence of such an agreement, which Downs' obviously disputes. As
13 such, the responses shall be supplemented to identify specific documents, by bates label, that are
14 responsive to each request. The court will now address the requests for which Downs has
15 provided specific arguments regarding the deficiency of Wells Fargo's responses.

16 **B. Requests 1, 2, 6, 8-10, 15-17, 20-22, 24, 28, 33**

17 **Request 1:** All contracts and agreements between Wells Fargo and any person or entity
18 regarding the servicing of the applicable deed of trust and/or note at issue in this matter.

19 **Response to Request 1:** Objection - this Request is not reasonably calculated to lead to the
20 discovery of admissible evidence. This Request is also overly broad and unduly burdensome
because, inter alia, it is not limited to a specific time frame. Wells Fargo also objects to this
Request to the extent it implies that deeds of trust are serviced.

21 Without waiving these objections, Wells Fargo services the loan for Freddie Mac. Wells
22 Fargo states that the servicing guidelines are equally available to plaintiff and Wells Fargo, and
that they are publicly available at www.freddiemac.com. The Freddie Mac guidelines are
judicially noticeable pursuant to FRE 201, and self-authenticating pursuant to FRE 902(5). Wells
23 Fargo intends to rely on these materials at trial.

24 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

25 **Discussion:**

26 Downs argues that Wells Fargo has not provided any contract/agreement between it and
27 any person/entity regarding the servicing of the applicable deed of trust and/or note at issue.
28 Wells Fargo's response merely points to the Freddie Mac guidelines but does not indicate
whether a contract or agreement exists with respect to the servicing of the loan for Freddie Mac

1 by Wells Fargo. Wells Fargo shall supplement its response to clarify whether such an agreement
2 or contract exists, and if it does, shall produce any such document(s).

3
4 **Request 2:** All contracts and agreements between Wells Fargo and Minnesota Life Insurance
Company.

5 **Response to Request 2:** Objection- this Request is not reasonably calculated to lead to the
discovery of admissible evidence. This Request is also overly broad and unduly burdensome
6 because, inter alia, it is not limited to a specific time frame and because it requests "all contracts
and agreements between Wells Fargo and Minnesota Life Insurance Company," regardless of
7 whether those contracts and agreements relate to this lawsuit, plaintiff, or the loan at issue. This
Request is also improper because Wells Fargo's contracts and agreements are proprietary and
may contain confidential information.

8 Without waiving these objections, see WELLS 00001-WELLS 002975.

9 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

10 **Discussion:**

11 The objection that the request is overbroad is sustained as it is true that the request is not
12 limited in scope to documents that may be relevant to Downs' insurance policy or her loan.
13 Limiting the request as such, Wells Fargo shall specifically identify any relevant agreements
14 between it and Minnesota Life which have been produced. Pointing to the universe of documents
15 produced in this action is insufficient. In addition, if the relevant document(s) have not been
16 produced, they shall be produced in accordance with this Order.

17 **Request 6:** All original and intervening Assignments showing a complete chain of assignments
from the originator to the person assigning the deed of trust and note to Wells Fargo.

18 **Response to Request 6:** Objection - this Request is not reasonably calculated to lead to the
discovery of admissible evidence. This Request is also vague and ambiguous, particularly since
19 plaintiff does not define "originator" or "deed of trust." Wells Fargo also objects to this Request
to the extent it implies that notes are "assigned" rather than indorsed.

20 Without waiving these objections, see WELLS 00001-WELLS 002975.

21 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

22 **Discussion:**

23 The objections are overruled as it is clear that Downs is seeking documentation
24 concerning the assignment or indorsement of the deed of trust from its inception forward. Wells
25 Fargo shall produce such documentation, if it has not done so already, and shall point Downs to
26 the specific bates labels of the responsive documents.

27 **Request 8:** All correspondence by and between Wells Fargo and either of the Plaintiffs to this
action.

28 **Response to Request 8:** Objection - this Request is not reasonably calculated to lead to the
discovery of admissible evidence. This Request is also overly broad and unduly burdensome

1 because it is not limited to a specific time frame. This Request is also overly broad and unduly
2 burdensome because, inter alia, it requests "all correspondence by and between Wells Fargo and
3 either of the Plaintiffs to this action," regardless of whether that correspondence relates to this
lawsuit or the loan at issue. Wells Fargo also objects to this Request to the extent it implies there
is more than one plaintiff in this lawsuit. Wells Fargo further objects to this Request as
duplicative of, inter alia, Request No. 5.

4 Without waiving these objections, see WELLS 00001-WELLS 002975.
5 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

6 **Discussion:**

7 This request shall be limited to all correspondence by and between Wells Fargo and
8 plaintiff Downs or her husband that is related to this lawsuit or the loan at issue. Wells Fargo
9 shall produce these documents, if it has not done so already, and shall supplement its response to
10 reflect the bates labels of the responsive documents.

11 **Request 9:** All correspondence by and between Wells Fargo and any Defendant to this action
with regard to the subject mortgage loan.

12 **Response to Request 9:**

13 Objection- this Request is not reasonably calculated to lead to the discovery of admissible
14 evidence. This Request is also overly broad and unduly burdensome because, inter alia, it is not
15 limited to a specific time frame. This Request is also vague and ambiguous, particularly because
it is not clear what plaintiff means by "mortgage loan." Wells Fargo further objects to this
Request as duplicative of, inter alia, Request No. 5.

16 Without waiving these objections, see WELLS 00001-WELLS 002975.

17 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

18 **Discussion:**

19 The objections are overruled. Wells Fargo shall produce all correspondence between it
20 and any defendant to this action related to the subject loan, and shall supplement its response to
specify the bates labels of the responsive documents.

21 **Request 10:** All sales contracts, servicing agreements, assignments, allonges, transfers,
22 indemnification agreements, recourse agreements and any agreement related to this account from
the inception of this account to the present date.

23 **Response to Request 10:**

24 Objection - this Request is not reasonably calculated to lead to the discovery of
25 admissible evidence. This Request is also overly broad and unduly burdensome because, inter
26 alia, it requests "all sales contracts, servicing agreements ...," including agreements that have no
bearing on this case. This Request is also vague and ambiguous, particularly since it is not clear
what plaintiff means by "account," "sales contracts ... related to this account," "transfers ...
related to this account," "indemnification agreements ... related to this account," or "recourse
agreements ... related to this account."

27 Without waiving these objections, see WELLS 00001-WELLS002975. In addition, Wells
28 Fargo services the loan for Freddie Mac. Wells Fargo states that the servicing guidelines are
equally available to plaintiff and Wells Fargo, and that they are publicly available at
www.freddiemac.com. The Freddie Mac guidelines are judicially noticeable pursuant to FRE
201 and self-authenticating pursuant to FRE 902(5). Wells Fargo intends to rely on these

1 materials at trial.

2 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

3 **Discussion:**

4 The request is self-limiting to documents related to "this account" which can reasonably
5 be interpreted as the loan account that is the subject of this litigation. The request is otherwise
6 perfectly clear, and Wells Fargo shall produce responsive documents if it has not done so
7 already, and shall supplement its response to identify responsive documents by bates label. It is
8 not required to produce the Freddie Mac guidelines, which the court recognizes are publicly
9 available.

10 **Request 15:** The Investor Loss Mitigation and Loan Modification Guidelines related to
11 Plaintiffs' mortgage loan.

12 **Response to Request 15:**

13 Objection - this Request is not reasonably calculated to lead to the discovery of
14 admissible evidence. This Request is also overly broad and unduly burdensome because, inter
15 alia, it is not limited to a specific time frame and because it requests all "Investor Loss
16 Mitigation and Loan Modification Guidelines," regardless of whether plaintiff applied for that
17 particular loss mitigation program. This Request is also vague and ambiguous, particularly since
18 it is not clear what plaintiff means by "Investor Loss Mitigation and Loan Modification
19 Guidelines related to Plaintiff's mortgage loan." This request is also improper because it seeks
20 information to which plaintiff and Wells Fargo have equal access.

21 Without waiving these objections, Wells Fargo services the loan for Freddie Mac. Wells
22 Fargo states that the loss mitigation and loan modification guidelines are equally available to
23 plaintiff and Wells Fargo, and that they are publicly available at www.freddie.com. The
24 Freddie Mac guidelines are judicially noticeable pursuant to FRE 201 and self-authenticating
25 pursuant to FRE 902(5). Wells Fargo intends to rely on these materials at trial.

26 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

27 **Discussion:**

28 This request is also self-limiting to those documents that are related to Downs' loan.
Wells Fargo shall supplement its response to clarify whether the Freddie Mac guidelines
referenced are the only responsive documents to this request. If so, it need not produce any
additional documentation. If there are additional responsive documents, they shall be produced in
accordance with this Order.

Request 16: All documents recording, reflecting or otherwise relating to visits which Wells
Fargo or YOUR agents made to the Subject Property.

Response to Request 16:

Objection - this Request is not reasonably calculated to lead to the discovery of
admissible evidence. This Request is also overly broad and unduly burdensome because, inter
alia, it is not limited to a specific time frame. This Request is also vague and ambiguous,
particularly since it is not clear what plaintiff means by "Subject Property." Wells Fargo also
objects to this Request because it requests documents that are not in Wells Fargo's possession or
control.

1 Without waiving these objections, see WELLS 00001-WELLS 002975.
2 Discovery is ongoing and Wells Fargo reserves the right to supplement its response.

3 **Discussion:**

4 Wells Fargo shall supplement its response to reflect what documents in its possession,
5 custody or control were produced that are responsive to this request, identifying the documents
6 by specific bates label.

7 **Request 17:** All accounting servicing transaction records, ledgers, registers and similar items
8 detailing how Plaintiff's account has been serviced from the inception of the account to the
9 present date.

10 **Response to Request 17:**

11 Objection - this Request is not reasonably calculated to lead to the discovery of
12 admissible evidence. This Request is also vague and ambiguous, particularly since it is not clear
13 what Plaintiff means by "items detailing how Plaintiff's account has been serviced from the
14 inception of the account to the present date." This Request is also overly broad and unduly
15 burdensome.

16 Without waiving these objections, see WELLS 00001-WELLS 002975.

17 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

18 **Discussion:**

19 Wells Fargo's objections are overruled as baseless. The request is sufficiently clear, and
20 Wells Fargo gives no indication as to how it is overly broad or unduly burdensome. Wells Fargo
21 shall supplement its response to identify, by bates label, the specific documents it has produced
22 that are responsive to this request.

23 **Request 20:** Each and every canceled check, money order, draft, debit or credit notice issued to
24 any servicers of Plaintiffs' account for paying of any monthly payment, other payment, escrow
25 charge, fee or expense on the account.

26 **Response to Request 20:**

27 Objection - this Request is not reasonably calculated to lead to the discovery of
28 admissible evidence. This Request is also overly broad and unduly burdensome because, inter
29 alia, it is not limited to a specific time frame. This Request is also vague and ambiguous,
30 particularly since it is not clear what plaintiff means by "Plaintiffs' account." This Request also
31 calls for documents that are not within Wells Fargo's possession or control. Wells Fargo also
32 objects to this Request to the extent it implies there is more than one plaintiff in this action.

33 Without waiving these objections, see WELLS 00001-WELLS002975.

34 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

35 **Discussion:**

36 Wells Fargo's objections are overruled, except that Wells Fargo is only required to
37 produce documents in its possession, custody or control. Wells Fargo shall supplement its
38 response to identify the responsive documents by bates label.

39 **Request 21:** All data, information, notations, text, figures and information contained in your
40 mortgage and accounting computer systems including, but not limited to Alltel or Fidelity CPI

1 system, or any other similar mortgage servicing software used by you, any servicers, or sub-
2 servicers of Plaintiffs' mortgage account from the inception of Plaintiffs' account to the present
date.

Response to Request 21:

3 Objection - this Request is not reasonably calculated to lead to the discovery of admissible
4 evidence. This Request is also overly broad and unduly burdensome because, inter alia, it
5 requests "all data, information, notations ...," regardless of whether the data, information,
6 notations, texts, figures, and information refer to plaintiff, the loan at issue, or the property at
issue. This Request is also vague and ambiguous, particularly because it is not clear what
7 Plaintiff means by "data, information, notations ..." Wells Fargo also objects to this Request
because it seeks documents that are not in Wells Fargo's possession or control.

Without waiving these objections, see WELLS 00001-WELLS002975.

Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

Discussion:

8 The court agrees that it is not clear exactly what Downs is seeking via this request, and it
9 appears it may seek documentation or information that is not related to this action. The parties
10 shall meet and confer to determine what exactly it is that Downs seeks to obtain in this request
11 and see if an informal resolution can be reached.

12 **Request 22:** All descriptions and legends for all Codes used in YOUR mortgage servicing and
13 accounting system so as to enable the examiners and auditors and experts retained to audit and
review this mortgage account to properly carry on their work.

Response to Request 22:

14 Objection - this Request is not reasonably calculated to lead to the discovery of
15 admissible evidence. This Request also calls for documents that are not within Wells Fargo's
16 possession or control and/or documents that are confidential and proprietary. This Request is also
overly broad and unduly burdensome.

Without waiving these objections, see WELLS 00001-WELLS002975.

Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

Discussion:

17 The parties shall meet and confer and discuss whether any specific documents have been
18 produced in response to this request, and determine whether any additional codes need to be
19 provided to allow Downs or any expert to adequately analyze the documents produced in this
20 action. If documents are confidential or proprietary, it should be discussed whether they can be
21 viewed subject to a confidentiality agreement to alleviate any concerns about disclosure.
22

23
24 **Request 24:** All records for any custodial accounts used for any purpose in connection with
25 Plaintiff's mortgage loan including the date, amount and source of all deposits in such accounts
and their date, amount and purpose for all disbursements including the name and address of any
party who received any such disbursement.

Response to Request 24:

26 Objection - this Request is not reasonably calculated to lead to the discovery of
27 admissible evidence. This Request is also vague and ambiguous, particularly because it is not
28 clear what plaintiff means by "custodial accounts." This Request is also overly broad and unduly
burdensome."

Without waiving these objections, see WELLS 00001-WELLS02975.

1 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

2 **Discussion:**

3 Wells Fargo's objections are overruled. Wells Fargo shall supplement its response to
4 identify, by bates label, the specific documents that are responsive to this request.

5 **Request 28:** All collection notes, reports, memos, statements, entries, data records, computer
6 records, daily records, calendar reports, default reports, collection contacts, collection reports or
7 other documents generated in connection with the servicing of Plaintiff's mortgage loan.

8 **Response to Request 28:**

9 Objection - this Request is not reasonably calculated to lead to the discovery of
10 admissible evidence. This Request is also overly broad and unduly burdensome because, inter
11 alia, it is not limited to a specific time frame and because it requests "all collection notes,
12 reports, memos ... ," regardless of whether the [documents] are related to the issues in this
13 lawsuit. Wells Fargo also objects to this Request because it seeks documents that are not in
14 Wells Fargo's possession or control. Wells Fargo further objects to this Request as vague and
15 ambiguous, particularly because it is not clear what plaintiff means by "collection notes, reports
16 ..."

17 Without waiving these objections, see WELLS 00001-WELLS002975.

18 Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

19 **Discussion:**

20 Wells Fargo's objections are overruled. Wells Fargo is ordered to supplement its response
21 to identify, by bates label, documents produced that are responsive to this request, or to produce
22 responsive documents if they have not yet been produced that are in its possession, custody and
23 control.

24 **Request 33:** All bills and invoices for property inspections for the Subject Property and copies
25 of the front and back of all checks in payment thereof or all confirmed wire transfers in payment
26 thereof.

27 **Response to Request 33:**

28 Objection - this Request is not reasonably calculated to lead to the discovery of
admissible evidence. This Request is also overly broad and unduly burdensome because, inter
alia, it is not limited to a specific time frame. This Request is also vague and ambiguous,
particularly since it is not clear what plaintiff means by "Subject Property." Wells Fargo also
objects to this Request because it requests documents that are not in Wells Fargo's possession or
control.

Without waiving these objections, see WELLS 00001-WELLS002975.

Discovery is ongoing, and Wells Fargo reserves the right to supplement this Response.

Discussion:

Wells Fargo's objections are overruled. Wells Fargo is ordered to supplement its response
to identify, by bates label, documents produced that are responsive to this request, or to produce
responsive documents if they have not yet been produced that are in its possession, custody and
control.

1
2 **C. Requests 25-27, 29-32, 34-40, 42, 44-48, 51-56, 61, 63-66, 68, 70-72, 75**

3 Downs provides no specific argument relative to these requests, other than to say that
4 Wells Fargo failed to produce documents responsive to the requests. (See Doc. # 109, Doc. #
5 191, Doc. # 222, Doc. # 265 at 6-9.)

6 The parties are directed to meet and confer in order to resolve any dispute that remains as
7 to these requests, and to file a statement indicating any remaining areas of dispute within the
8 time parameters indicated below.

9 **D. Additional Documents**

10 In addition, Downs contends that the following documents still need to be produced:
11 communications between Wells Fargo and Minnesota Life, including "load files," ".txt reports,"
12 "P309 pay history," "reports from S206 and the 216 remittance detail that the product provider
13 would see for the M9 plan code for product payments for UIN: HHWXHPVVVR," and other
14 reports and pay history described on WELLS 002098; the "LPS system" information;
15 information regarding an "image viewer system;" information regarding a "foreclosure referral
16 system;" an electronic referral from Wells Fargo to Trustee Corps; the "My Network" file
17 referred to on WELLS 475; the "MSP system;" Downs' information in the "LIV system;" the
18 "OPUS" system information; all archives not produced at Tupa's deposition; all Wells Fargo
19 notations of the file after receiving critical letters from Minnesota Life; the spreadsheet
20 "Optional" created for the checks received from Minnesota Life and spreadsheet sent to "Cash"
21 and related e-mails; the timeline created by Tupa; the guidelines Wells Fargo followed/used in
22 servicing Downs' loan. (Doc. # 265 at 9-10.)

23 Wells Fargo states that while Downs insists certain documents have not been produced,
24 in fact they have. (Doc. # 266 at 2.) Wells Fargo attaches a copy of documents it has produced as
25 Exhibit A to its memorandum. (Id.) Exhibit A to Wells Fargo's memorandum consists of 762
26 pages. (Doc. # 266-1.) Wells Fargo's memorandum also contains a table providing a general
27 index of these documents. (Doc. # 266 at 2-3.)

28 Downs is directed to notify the court within the time parameters set forth below whether
the production identified in Wells Fargo's memorandum resolves the issue with respect to the

1 documents Downs claims were not produced. If any deficiency remains, the parties are directed
2 to engage in a meaningful meet and confer effort to resolve the dispute before reporting that
3 court intervention is necessary.

4 **VI. PRIVILEGE LOG**

5 Downs asserts that Wells Fargo has failed to provide an adequate privilege log, and
6 instead has provided two deficient privilege logs. (Doc. # 265 at 11.) She claims that they cover
7 only a limited number of documents, and for those covered, they do not provide the identities of
8 the sender or recipient or even the general subject matter of the communications. (Id.) She
9 requests that Wells Fargo be required to update the logs with all requested information, and
10 provide a complete privilege log as to all withheld documents, including the referral to Trustee
11 Corps, and all documents and communications with Trustee Corps and Minnesota Life. (Id.)

12 Wells Fargo states that it previously agreed to supplement its privilege log, but believed
13 this issue became moot when Wells Fargo filed its motion for summary judgment and Downs did
14 not request discovery under Federal Rule of Civil Procedure 56(d). (Doc. # 266 at 4.)
15 Nevertheless, Wells Fargo served Downs with a supplemental privilege log on October 14, 2014.
16 (Id.)

17 Preliminarily, Downs' failure to request discovery under Rule 56(d) did not obviate Wells
18 Fargo's agreement to provide a supplemental privilege log, because there may be documents
19 identified in the log that Downs may wish to contest the validity of the privilege of for use at
20 trial.

21 Downs is directed to submit a statement within the time parameters set forth below
22 indicating whether or not she deems the supplemental privilege log (served on October 14, 2014)
23 to be satisfactory, and if she deems it to be unsatisfactory, outlining in specific detail those areas
24 she deems deficient. This statement, however, must be preceded by a sincere meet and confer
25 effort to resolve any remaining dispute.

26 **VII. DOLLENS CASE**

27 Downs contends that Wells Fargo should have disclosed a New Mexico case, Dollens v.
28 Wells Fargo Bank, et. al., D-202-CV-2011-05295. Downs asserts that the details of the case

1 were disclosed in a March 7, 2014 USA Today newspaper article. Downs argues that the Dollens
2 case, filed on May 16, 2011, should have been disclosed under Rule 26 and in response to
3 Downs' request for production of documents 29, served on Wells Fargo on March 30, 2012,
4 which asked for:

5 All documents which relate to, refer to or evidence any and all civil actions,
6 adversary proceedings, arbitrations, or administrative proceedings that have been
7 filed against Wells Fargo at any time in the past 60 months for any alleged
8 misconduct related to mortgage servicing on foreclosures.

9 (Doc. # 265 at 10.) Wells Fargo did not respond to the request. (Id.)

10 Downs also notes that both Tupa and Shannon Eckert were designated as 30(b)(6)
11 witnesses in the Dollens case and in this case, and testified in the Dollens case two weeks prior
12 to testifying in this case, and contends that they avoiding talking about the details of the Dollens
13 case. (Doc. # 265 at 10-11.) Downs contends that Wells Fargo should be compelled to disclose
14 the entire Dollens file. (Id.)

15 Wells Fargo argues that the Dollens issue is not properly before the court because it was
16 not raised in any of the pertinent motions to compel filed by Downs against Wells Fargo, and
17 was only first raised in Downs' March 31, 2014 objection to the undersigned's order denying her
18 most recent motion to compel. (Doc. # 266 at 1.) In addition, Wells Fargo contends that Downs
19 knew of the Dollens case in November of 2012 when Minnesota Life disclosed it in its
20 supplemental disclosures, yet Downs failed to request any information regarding the Dollens
21 case in discovery in this case. (Id.) Wells Fargo further claims that Downs withdrew request for
22 production 29 that would have covered the disclosure of information relative to the Dollens case,
23 and as such she waived her right to compel the Dollens documents. (Id.)

24 First, Wells Fargo is correct that the Dollens issue was not raised in any of the pertinent
25 motions to compel filed by Downs against Wells Fargo (Docs. # 109, # 191, # 222). Instead, the
26 argument was raised for the first time in Downs' objection to the undersigned's order denying her
27 most recent motion to compel against Wells Fargo. (See Doc. # 244 at 2-10.) While request 29
28 was originally referenced (only by number, and with no specific argument) in the first motion to
compel filed by Downs against Wells Fargo (Doc. # 109 at 13), it was omitted from the
subsequent motions (Doc. # 191 at 8 and Doc. # 222 at 9).

1 Second, while Downs claimed that she first became aware of the Dollens case through
2 the March 7, 2014 USA Today article (see Doc. # 244-11 at 2), Wells Fargo is correct that
3 Minnesota Life disclosed the case in its supplemental response to Downs' request for production
4 of documents, served on November 7, 2012. (Doc. # 248 at 7; Doc. # 248-1 at 6 (identifying
5 Dollens case).)

6 Third, the court finds that Downs did in fact withdraw request 29, which would have
7 required disclosure of the Dollens case. Downs contends that she only withdrew request 29
8 because Wells Fargo's counsel specifically represented to Downs' counsel that there were no
9 documents responsive to that request. (Doc. # 244 at 11.) The court agrees with Wells Fargo that
10 it is simply not plausible that Wells Fargo's counsel would make such a representation in
11 connection with a request which asked for all documents relating to all claims made by all
12 private litigants and agencies throughout the United States relative to mortgage loan servicing
13 and foreclosure for five years. As Wells Fargo points out, if Wells Fargo answered this request as
14 drafted, it would have resulted in the production of millions of pages of documents. (Id.) In
15 addition, the fact that Downs did not re-assert an issue with respect to request 29 in her
16 subsequent motions to compel lends credibility to Wells Fargo's position that request 29 was
17 withdrawn.

18 Despite Minnesota Life's disclosure of Dollens on November 7, 2012, Downs did not
19 seek to renew her request for production 29 as against Wells Fargo, or propound any other
20 discovery relative to Dollens.

21 At the very beginning of Tupa's November 15, 2012 deposition, Downs' counsel asked
22 Tupa whether she had ever been deposed before, to which she responded she had, two weeks
23 prior. (Doc. # 244-7 at 3, Nov. 15, 2012 Tupa Depo. at 4:18-22.) She was asked what the
24 deposition was regarding, and responded: "A loan for Wells Fargo Home Mortgage that included
25 accidental death insurance." (Doc. # 244-7 at 3, Nov. 15, 2012 Tupa Depo. at 4:24-25.) She was
26 also asked whether she had been deposed in a case "similar to this case" and she responded that
27 she had not. ((Doc. # 244-7 at 3, Nov. 15, 2012 Tupa Depo. at 5:9-11.) Wells Fargo asserts that
28 Downs' counsel did not explain what he meant by "similar;" therefore, Tupa's response indicates

1 that she did not understand Dollens to be similar. (Doc. # 248 at 8.)

2 When she was asked what she had been deposed about in the prior case, she responded:
3 "They were asking questions regarding our policy and procedures in regards to the claim check
4 that came into our department." (Doc. # 244-7 at 3, Nov. 15, 2012 Tupa Depo. at 5:12-16.) When
5 asked where the case was venued, she responded that she did not recall. (Doc. # 244-7 at 4, Nov.
6 15, 2012 Tupa Depo. at 6:3-4.) Downs' counsel then proceeded with other standard deposition
7 admonitions. (Id.) Downs' counsel did not ask her any more questions about the specific details
8 of that case or even if she recalled the name of the case. Downs deposed Tupa again in February
9 2013, and despite the Dollens case being disclosed by Minnesota Life on November 7, 2012, did
10 not ask Tupa any questions about the case.

11 Downs' counsel did ask Shannon Eckert at her January 31, 2013 deposition whether
12 Wells Fargo had any issues similar to the Downs' with respect to the optional product from
13 Minnesota Life in this case, which is known as "Secure 12." (Doc. # 244-10 at 4, Jan. 31, 2013
14 Eckert Depo. at 90:3-19.) She testified: "not that I'm aware of." (Doc. # 244-10 at 4, Jan. 31,
15 2013 Eckert Depo. at 90:23.) She also responded that she did not know whether or not Wells
16 Fargo had been sued by any other customers in relation to the "Secure 12" optional product.
17 (Doc. # 244-10 at 4, Jan. 31, 2013 Eckert Depo. at 90:24-25-91:1-7.)

18 According to Wells Fargo, the specific insurance product at issue in Dollens was different
19 from the product at issue in this case—the "Secure 12." (See Doc. # 244-12 at 3; Doc. # 248 at
20 8:15-16.) This is supported by Tupa's testimony in this case that the case involved an accidental
21 death insurance claim. (Doc. # 244-7 at 3, Nov. 15, 2012 Tupa Depo. at 4:24-25.) If this is the
22 case, Eckert's response is reasonably explained.

23 It is not entirely clear if the witnesses were purposefully being evasive in some of their
24 responses or if they were simply answering the specific questions posed to them, to which
25 Downs posed no follow up. Nevertheless, Wells Fargo is correct that the Rule 30(b)(6)
26 deposition notice did not contain "other litigation" as a deposition topic for these witnesses.

27 Finally, Downs contends that Federal Rule of Civil Procedure 26 required the disclosure
28 of Dollens. If Downs is asserting that the initial disclosure provision of Rule 26 requires

1 disclosure of Dollens, Downs is mistaken. Rule 26(a) requires a party to provide information for
2 individuals with discoverable information, a copy or description of all documents the party may
3 use to support its claims and defenses, a computation of each category of damages, and any
4 applicable insurance agreement. Fed. R. Civ. P. 26(a)(i)-(iv). None of these categories would
5 have resulted in the initial disclosure of the Dollens file.

6 In conclusion, the court will not compel Wells Fargo to provide documents or
7 information relative to the Dollens case because: (1) she withdrew the request for production that
8 would have required its disclosure; (2) she did not include other litigation as a topic for Wells
9 Fargo's 30(b)(6) witnesses; and (3) she failed to conduct any discovery on the topic after
10 Minnesota Life disclosed the case on November 7, 2012. This does not preclude Downs from
11 obtaining information about the case independently, and she has apparently already undertaken
12 efforts to do so as she has provided excerpts from deposition transcripts from Dollens in this
13 action. (See Doc. # 244-8, Doc. # 244-9.)

14 **VIII. CONCLUSION**

15 (1) Downs' request to compel further testimony from Wells Fargo's Rule 30(b)(6)
16 witnesses, Jones and Tupa, is **DENIED**;

17 (2) Downs' request to compel Wells Fargo to provide supplemental responses to
18 interrogatories 10, 12 and 18 is **GRANTED** as set forth herein; supplemental responses shall be
19 provided **WITHIN TWENTY-ONE DAYS OF THE DATE OF THIS ORDER**;

20 (3) Downs' request to compel Wells Fargo to provide supplemental responses to her
21 requests for production of documents is **GRANTED** insofar as Wells Fargo shall supplement its
22 responses to requests for production that identify the universe of documents by identifying
23 specific documents responsive to each request by bates label and Wells Fargo shall supplement
24 its responses to specific requests for production of documents (requests 1, 2, 6, 8, 9, 10, 15, 16,
25 17, 20, 21 (meet and confer), 22 (meet and confer), 24, and 28) as set forth herein; supplemental
26 responses shall be provided **WITHIN TWENTY-ONE DAYS OF THE DATE OF THIS**
27 **ORDER**; if Downs has further issues with these supplemental responses, a good faith meet and
28 confer effort shall be undertaken before the filing of any additional motion on this topic;

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(4) Downs' request to compel documents and information related to the Dollens case is **DENIED**;

(5) **WITHIN TWENTY-ONE DAYS OF THE DATE OF THIS ORDER**, Downs and Wells Fargo shall engage in a sincere and meaningful effort to resolve any remaining areas of dispute, and submit a joint statement which outlines any remaining areas of dispute and sets forth the parties respective position on such issues. The statement shall addresses, at a minimum:

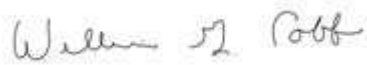
(a) Whether any issue remains as to the production of documents identified or referenced in Wells Fargo's Rule 30(b)(6) depositions;

(b) Whether any issue remains as to Wells Fargo's responses to requests for production 25-27, 29-32, 34-40, 42, 44-48, 51-56, 61, 63-66, 68, and 70-72, as well as the other documents Downs contends should have been produced by Wells Fargo;

(c) Whether or not the supplemental privilege log served by Wells Fargo on October 14, 2014 is adequate.

IT IS SO ORDERED.

Dated: October 27, 2014.



WILLIAM G. COBB
UNITED STATES MAGISTRATE JUDGE