

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. BANK NATIONAL ASSOCIATION, as
successor to Wells Fargo Bank, National
Association, as Trustee for the Registered
Holders of Citigroup Commercial Mortgage
Trust 2007-C6, Commercial Mortgage Pass-
Through Certificates, Series 2007-C6, acting by
and through Its Special Servicer
LNR PARTNERS, LLC,

Plaintiff,

v.

BANK OF AMERICA, N.A.,

Defendant.

Case No. 15-cv-08153 (PGG)

STIPULATION FOR
THE EXCHANGE OF
ELECTRONICALLY STORED
INFORMATION

The following procedures and obligations for the exchange and production of electronically stored information (“ESI”) are hereby **STIPULATED AND AGREED** by and between the parties hereto, through undersigned counsel:

1. General Applicability and Modification

(a) If a provision of this agreement (the “ESI Stipulation”) conflicts with the terms of the Stipulated Confidentiality Agreement and Protective Order (the “Confidentiality Stipulation”) previously entered in this action, the Confidentiality Stipulation will control absent further order of the court.

(b) Should either party determine in good faith that it cannot proceed as required by this ESI Stipulation, the parties agree to meet and confer to resolve any dispute. Should the Parties be unable to resolve any such issue, they may then seek the Court’s assistance.

(c) This ESI Stipulation shall also govern productions made by any third party who is subpoenaed in this action, unless otherwise agreed to by the issuing party and the third party. Accordingly, this ESI Stipulation should be attached to any subpoena issued in this action.

2. Format of Files for Production

(a) Digitized Paper Documents:

(i) Documents originally in paper/physical form will be digitized into single-page, group IV (G4) format, black and white TIFF files at 300 dpi and be 8 ½ x 11 inch page size, except for documents requiring higher resolution or different page size.

(ii) In scanning paper documents, distinct documents should not be merged into a single record, and single documents should not be split into multiple records (i.e., paper documents should be logically unitized). The Parties will make their best efforts to have their vendors unitize documents correctly and will commit to address situations where there are improperly unitized documents.

(iii) Every filename will match the document's Bates number, and be zero padded with no blank spaces; i.e., D000000001 (Defendant's Bate Stamp Page 1, P000820009 (Plaintiff's Bate Stamp Page 000820009));

(iv) The Parties will include with each production delivery an archival image link file as agreed (i.e., an Opticon (.OPT) file or similar).

(v) The Parties will include standard Concordance default delimited text files as agreed in .DAT or similar format, and will include all available fielding data, including but not limited to: (1) beginning and ending Bates numbers, (2) beginning and ending attachment numbers, (3) number of pages, and (4) source location/custodian.

(vi) The parties will apply Optical Character Recognition (OCR) software to all applicable documents and create document level OCR-searchable files in .TXT format for

document. The OCR software should be set to the highest quality setting during processing. The file name of each such .TXT file should correspond to the file name of the first image file of the document with which it is associated. The text files will not contain the redacted portions of the documents.

(b) Documents Originating Electronically:

Standard electronic documents, emails, and presentations will be produced as TIFF images in the manner described above in Paragraph 2(a); however, all attachments, addendums, enclosures, and/or exhibits to a parent documents will be produced and identified as they relate to the respective parent document.

(i) Digital documents will be produced with corresponding .TXT files as outlined above in Paragraph 2(a), as well as extracted metadata fields (where available), as agreed and set forth in the Metadata Table contained in Appendix A below.

(ii) All TIFF files are to be provided with an accompanying searchable text (.TXT) file extracted from the native, electronic file (not generated as an OCR file from the TIFF image(s)), and such text files shall contain the full text extraction. To the extent reasonably feasible, extracted text shall provide all comments, tracked changes, speaker's notes, and text from hidden worksheets, slides, columns and rows. In the case of files with redacted text, OCR'd text of the redacted documents may be provided in lieu of extracted text. OCR software should be set to the highest quality setting during processing.

(iii) Extracted text, as opposed to OCR text, delivered with production and formatted in .TXT file as above with OCR text files.

(iv) The Parties will produce the following ESI types in native file format: (1) Excel spreadsheets, (2) audio/visual files, and (3) PowerPoint presentations. Any documents produced in native file format will be produced according to the following specifications:

- A unique Bates number and confidentiality designation shall be used as the file name and the original file name and file extension shall be preserved in the corresponding load file.
- The native file format documents shall be accompanied by reference information that sets forth for each document, sufficient information to allow the Parties to track and authenticate the native format documents produced, including: (i) the name of the custodian from whose files the electronic file is produced; (ii) an appropriately calculated "MD-5 Hash Value"; (iii) the original name of the file; and (iv) a Bates number.
- Any file produced in native format need not be imaged. Instead, a single page placeholder image shall be provided that indicates the file was produced in native format and contains the Bates number and Confidentiality designation of the corresponding file.

(v) The Parties agree to meet and confer regarding the production format for any databases or other structured data that are not easily convertible to TIFF images and/or require specialized software to view and/or process the responsive data.

3. Deduplication (Global)

(a) Each Party will de-duplicate ESI globally for exact duplicate documents (based on MD5 or SHA-1 hash values at the parent document level). This will result in the Producing Party producing only a single copy of responsive Duplicate ESI, provided that all other custodians of the

Duplicate ESI are listed in the "Duplicate Custodians" (or similar name) field. The Parties shall de-duplicate stand-alone documents against stand-alone documents and shall de-duplicate top-level email documents against top-level email documents. De-duplication shall not break apart families. Common system and program files as defined by the NIST library need not be processed, reviewed or produced.

(b) The Parties will retain all de-duplicated documents for the duration of the action or as agreed.

4. Confidentiality Designations and ESI From Other Individuals/Entities:

The Parties will designate documents as confidential or otherwise according to the terms of the Confidentiality Stipulation.

5. Proprietary or Third Party Software

To the extent that information produced pursuant to this Protocol cannot be rendered or viewed without the use of proprietary or third-party software, the Parties shall meet and confer to minimize any expense or burden associated with the production of such information in an acceptable format.

6. Production Media

The Parties shall produce documents electronically via a secure File Transfer Protocol ("FTP") rather than through physical media (*e.g.*, CD, DVD, or hard drive), unless such electronic transmission is impracticable, or the otherwise Parties agree on a different method of transmission. The produced documents shall be password protected and/or encrypted.

Dated: November 18, 2021

VENABLE LLP

/s/ Gregory A. Cross
Gregory A. Cross
Colleen Mallon Casse (*pro hac vice*)
750 East Pratt Street, Suite 900
Baltimore, Maryland 21202
Telephone: (410) 244-7400

Attorneys for Plaintiff

WINSTON & STRAWN LLP

/s/ Luke A. Connelly
Luke A. Connelly
200 Park Avenue
New York, NY 10166
Telephone: (212) 294-6700

Attorney for Defendant

Dated: November 19, 2021
New York, New York

SO ORDERED.



Paul G. Gardephe
United States District Judge

APPENDIX A

Field Name	Sample Data	Description
PRODBEG	P000000222	First Bates number of native file document/email
PRODEND	P000000222	Last Bates Number of native file document/email (single-page documents will list beginning and ending Bates number)
BEGATTACH	P000000222	Beginning Bates number of the first document in an attachment range (e-mail only)
ENDATTACH	P000000229	Ending Bates number of the last document in an attachment range.
CUSTODIAN	Adams, John; johnadams@1776.gov	Email: mailbox in which the file was located Native: Individual who originated the document
DUPLICATE CUSTODIAN	Franklin, Ben; Hancock, John, Whipple, William	When global deduplicating has been employed, the custodians who had duplicates of the identical document
FROM	Adams, John	Email author/sender
AUTHOR	Jefferson, Thomas	Author of native document (MS Word, etc.)
TO	Hancock, John[mailto: HANCOCK@JOHNHANCOC K.com]	Recipient(s) of email separated by semicolon
CC	Franklin, Ben [mailto: bennyf@1776.com]	Carbon copy recipient(s) of email
BCC	NA	Blind carbon copy recipient(s) of email
SUBJECT	Declaration w/ edits	Email: subject line Native: document title
FILENAME		File name — Original name of file as appeared in original location
FILE_PATH		File path of the original storage location of the document or email
FILE_EXTEN	i.e., MSG, DOCX, PDF, etc.	File extension of email or native document
FILE_SIZE		Size or volume of individual file
DATE SENT	7/3/1776	Email: date the email was sent

DATE_RECEIVED	7/4/1776	Email: date the email was received
TIME_SENT	12:59 AM	Email: time at which email was sent on date in date field
TIME_RECEIVED	1:05 AM	Email: time at which email was received
DATE_CREATED	6/1/2009	Date native document was created
DATE_MOD	10/12/2010	Date native document was last modified
PGCOUNT	1	Total pages of each original document/email
NATIVE_LINK	D:\1969\ P000000222.MSG	Hyperlink to web address, named uniformly with first bates of parent document
Full Text Path	D:\1969\ P000000222.txt	UNC path to text files of extracted/OCR text (unless redacted)
MD5/SHA1	E4d909c290d0fb1ca068ffaddf22cbd0	Hash code created for file in connection with deduplication
CONFIDENTIALITY		Confidentiality designation for produced documents
REDACTION		Identifies if a document has been redacted.