

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LISSETTE MONTALVO,

Plaintiff,

v.

**BANK OF AMERICA CORPORATION,
BAC HOME LOANS SERVICING, LP
f/k/a Countrywide Home Loans
Servicing, LP,**

Defendants.

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CIVIL ACTION NO.

SA-10-CV-0360 XR

ORDER GRANTING MOTION TO OVERRULE PLAINTIFF’S OBJECTIONS
(DOCKET ENTRY 46)

The matter before the Court is defendant’s BAC Home Loans Servicing, LP (“BAC”) motion to overrule plaintiff’s discovery objections (docket entry 46). Also before the Court are plaintiff’s response and defendant’s reply (docket entries 53 and 57). The motion was referred to me for disposition (Order, August 22, 2011).

The motion concerns a continuing dispute between the parties concerning the objections which plaintiff lodged to a number of interrogatories, requests for production and requests for admission. Defendant’s filed an earlier motion concerning this dispute which was denied as the motion did not reflect that the parties had first conferred. Thereafter the parties apparently discussed the objections but without success. This motion followed.

I have reviewed the motion, response and reply, and the particular objections which are the subject of the motion (attached to docket entry 46, as exhibit 1) in light of the relevant

discovery rules. I agree that the objections are without merit: the discovery does not improperly or prematurely require plaintiff to produce her evidence; plaintiff has failed to establish that responding to the discovery is unduly burdensome or that the information sought is protected from disclosure by privilege; and the time period for the information sought is sufficiently described and the information preceding the alleged loan modification efforts extending back to July 2006 is sufficiently relevant to the matters in dispute in this case so as to be discoverable.

Accordingly, the motion to overrule objections is GRANTED as follows:

1. Interrogatory 2: Plaintiff has withdrawn her objection. She shall respond without objection within 14 days from date of this Order.
2. Interrogatory 16: Plaintiff's objection based on lack of clarity regarding applicable dates is overruled. The interrogatory is clear. Plaintiff shall provide a written response to this discovery without objection within 14 days from date of this Order.
3. Interrogatory 19 and Request for Production 20: Plaintiff's objection based on lack of clarity regarding applicable dates is overruled. The interrogatory and request are clear and the information sought – payments which plaintiff contends were improperly applied and how they should have been applied, including payments dated prior to the alleged loan modification efforts– is relevant. Plaintiff shall provide a written response to this discovery without objection within 14 days from date of this Order.
4. Interrogatory 22 and Request for Production 23: Plaintiff's objection based on lack of clarity regarding applicable dates is overruled. The interrogatory and request are clear and the information sought – charges against the loan which plaintiff contends were improperly applied and how they should have been applied, including charges prior to the alleged loan modification efforts– is relevant. Plaintiff shall provide a written response to this discovery without objection within 14 days from date of this Order.
5. Request for Admission 24: Plaintiff's objection based on lack of clarity regarding applicable dates is overruled. Plaintiff shall provide a written response to this discovery without objection within 14 days from date of this Order.
6. Request for Production 28: Plaintiff's objection based on lack of clarity regarding applicable dates is overruled. Plaintiff shall provide a written response to this discovery without objection within 14 days from date of this Order.

7. Request for Production 41: Plaintiff's objection based on lack of clarity regarding applicable dates is overruled. The request is clear and the information sought – documents concerning acceleration of the loan and foreclosure proceedings – is relevant. Plaintiff shall provide a written response to this discovery without objection within 14 days from date of this Order.
8. Requests for Production 47 and 48: Plaintiff has withdrawn her objection. She shall respond and provide the requested documents as requested which are in her possession, custody, and control without objection within 14 days from date of this Order.
9. Interrogatory 52: Plaintiff's objection that this discovery requires plaintiff to marshal its proof and is burdensome is overruled. Defendant's reference to Request for Production 58 and 59 – instead of 50 and 51 – has been clarified. Plaintiff shall provide a written response to this discovery without objection within 14 days from date of this Order.
10. Request for Production 57: Plaintiff has withdrawn her objection. She shall respond and provide the requested documents as requested which are in her possession, custody, and control without objection within 14 days from date of this Order.

It is so ORDERED.

SIGNED on September 1, 2011.



NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE