

# **MCGARRY DECLARATION EXHIBIT A**



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July 10, 2012

*Via Electronic Mail*

Dahlia S. Fetouh  
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Re: *In Re: Bank of America Home Affordable Modification  
Program (HAMP) Contract Litigation  
Case No. 1:10-md-2193-RWZ (D. Mass.)*

Dear Dahlia:

We have reviewed your letter of July 9, 2012 insisting that we have not reached impasse on production of emails. We disagree.

Your prior correspondence dated July 3, 2012 on this issue is nothing more than unsupported insistence that Plaintiffs' proposed compromise on email discovery (limiting the number of custodians to 24 and proposing a relatively short list of search terms) is burdensome, costly and unreasonable. You gave us no basis for BOA's position on this issue other than mere assertions of burdensomeness and cost.

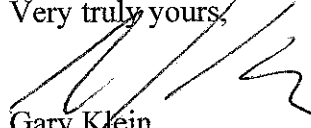
Your conclusion in the July 3 letter that we must negotiate against ourselves by providing you with an even more limited proposal for email searches is not a legitimate continuation of the meet and confer process. Indeed, when we spoke, we specifically asked that if you find any search terms objectionable, that you work with us to craft them in a way that is more acceptable. Instead, you first came back with a letter saying you could not address the issue of search terms as you needed more time. On July 3, 2012 you wrote to tell us that your view is that we must unilaterally generate a more limited proposal. This leads us to conclude, as stated in our July 6, 2012 letter, that we are at an impasse.

Given how much time has passed without resolution of this issue, we are unwilling to continue the formal meet and confer process and reserve our right to raise this issue with the Court. However, as we proceed, if you choose to provide information

in support of your assertions by, for example, making a person knowledgeable about the process of collecting and searching email available to us for discussion of any legitimate technical concerns, we remain willing (again as stated in the July 6, 2012 letter) to work with you to refine our search terms. In the alternative, please feel free to give us a list of search terms to which BOA will agree so that we can consider it and try to reach substantive agreement.

Finally, if the burdensomeness concern that you've expressed is related solely to the number of responsive emails that might require attorney review, we are willing to consider a clawback agreement that would facilitate expeditious review and production.

Very truly yours,



Gary Klein

cc: Brooks Brown  
James McGarry  
Ari Brown  
Tyler Weaver  
Shennan Kavanagh  
John McGowan  
Kevin Costello