

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

MICHAEL J. FLYNN; and DENNIS LEE
MONTGOMERY and BRENDA KATHLEEN
MONTGOMERY, husband and wife,

Plaintiffs,

vs.

NV MORTGAGE INC. d/b/a Soma Financial
d/b/a www.mysoma.com; COUNTRYWIDE
FINANCIAL CORPORATION;
COUNTRYWIDE HOME LOANS, INC.;
COUNTRYWIDE BANK, FSB; BANK OF
AMERICA, N.A., successor to the
COUNTRYWIDE DEFENDANTS; BAC
HOME LOANS SERVICING, LP, successor to
the COUNTRYWIDE DEFENDANTS, LP;
BANK OF AMERICA CORPORATION,
successor to the COUNTRYWIDE
DEFENDANTS; and DOES 1-50,

Defendants.

Case No. 2:13-cv-00360-RAJ

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION TO
COMPEL AND FOR
EVIDENTIARY SANCTIONS**

**NOTED FOR HEARING:
NOVEMBER 28, 2014**

I. INTRODUCTION

In their Motion to Compel Initial Disclosures and For Evidentiary Sanctions (“Motion”), Plaintiffs Michael J. Flynn (“Flynn”) and Dennis and Brenda Montgomery (the “Montgomerys”) (collectively, “Plaintiffs”) seek to compel initial disclosures despite the fact that Defendants Bank of America, N.A., and Bank of America Corporation (collectively “Defendants”) have not only complied with the Federal Rules by providing such initial disclosures, but have also supplemented their disclosures on two subsequent occasions in an attempt to assuage Plaintiffs and avoid an unnecessary motion. Defendants’ disclosures comply with the Federal Rules and are not deficient. Yet, Plaintiffs file the instant Motion under the mistaken belief that the purpose of Defendants’ initial disclosures is to alleviate their need to engage in any discovery to prosecute their claims.

First, Plaintiffs argue that Defendants should have disclosed the existence of litigation concerning implementation of modifications under the Making Homes Affordable Program (HAMP), a program for which Plaintiffs would never qualify and thus has no relevance whatsoever to the instant suit. Specifically, the property in question is valued at more than three times the limit for residences which are potentially eligible for HAMP modifications.

Second, Plaintiffs believe that Defendants have inadequately disclosed the identity of persons who may have knowledge concerning these claims and who may ultimately testify at trial. The Federal Rules only require Defendants to disclose the identity of witnesses who *Defendants* (not Plaintiffs) intend to call to testify, which they have done here. Insofar as Plaintiffs require additional information regarding employees who may have worked on the subject loan, they have been and remain free to engage in such discovery, and regardless, this information has already been provided to Plaintiffs. In addition, Plaintiffs waited over a year to challenge the sufficiency of such disclosures, thereby demonstrating their lack of diligence and establishing the absence of any prejudice. In fact, the Rule 16 conference was held just a couple months ago such that Plaintiffs could not have been prejudiced even if such disclosure

1 was required, as the parties were unable to engage in any discovery prior to the entry of a
2 Joint Status Report.

3 It is readily apparent that Plaintiffs' Motion is designed solely to harass and burden
4 Defendants, and not to remedy any actual prejudice, as discovery is not set to close in this
5 matter for another ten months. As Defendants' disclosures were appropriate under the
6 Federal Rules, Plaintiffs' Motion should be denied, and their wildly excessive request for
7 sanctions must also be denied.

8 II. PROCEDURAL HISTORY

9 The Montgomerys initiated the instant lawsuit on February 27, 2013. Dkt. 1.
10 Defendants provided their initial disclosures to the Montgomerys on May 15, 2013. Dkt. 50-1.
11 Despite the fact that Plaintiffs now express outrage regarding such disclosures, they failed to
12 comment on them for a year after receipt of same. After the parties conferred on a Joint
13 Status Report, which was filed on June 17, 2014, Plaintiffs stated for the first time in the
14 Report that Defendants' initial disclosures were somehow inadequate, without providing any
15 detail for such contention. Dkt. 43. Subsequently, on June 26, 2014, Plaintiffs filed a Notice
16 of Pendency of Other Action, referring to an MDL action relating to HAMP modifications
17 venued in Massachusetts, which Plaintiffs claim should have been disclosed to them by
18 Defendants. Dkt. 44.

19 On July 16, 2014, Flynn¹ reached out to schedule a meet and confer. Declaration of
20 Jacob Downs ("Downs Decl.") ¶ 2. Ultimately, a meet and confer was held on July 18, 2014,
21 wherein Flynn argued that Defendants had failed to meet their Rule 26 obligations because
22 they had not provided copies of documents or identify the documents by category and
23 location. *Id.* ¶ 3. Flynn further argued that Defendants are under an obligation to identify
24 each database where the documents identified in the disclosures reside. *Id.* Defendants

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26 ¹ Mr. Flynn, who is an attorney licensed in Massachusetts but not in Washington State, has now appeared *pro se*
in this matter.

1 agreed to provide supplemental disclosures, which were served on Plaintiffs on July 21, 2014.
2 *Id.* ¶ 4; Dkt 50-2.

3 Flynn still was not satisfied with the supplemental disclosures, and he apparently
4 chose to switch grounds for contesting the disclosures on July 21, 2014, by arguing that he
5 believed Defendants were required to identify BANA employees who may ultimately be
6 called to testify, and also by demanding that Defendants supplement by identifying the
7 databases and location of categories of documents maintained by Defendants. Downs Decl. ¶
8 4, Ex. A (7/21/14 e-mail chain). Defendants responded by clarifying that they had already
9 disclosed who they intended to call – a records custodian - and that they reserved the right to
10 call employees who worked on the Montgomerys' account. *Id.* Flynn responded that
11 Plaintiffs believed they had been prejudiced by the failure to disclose this information and
12 intended to file a motion to compel, despite the fact that the disclosures had been made a year
13 earlier, and discovery had just opened. *Id.* Defendants' counsel reiterated that Defendants had
14 complied with the requirements of Federal Rule 26, as they had disclosed the identity of
15 persons ***Defendants*** may choose to call as witnesses and were not required to do Plaintiffs'
16 work for them by disclosing the identify of all parties who worked on the account. Instead,
17 Plaintiffs were and remain free to engage in discovery to seek such information if they are so
18 inclined. *Id.* Notwithstanding this, Defendants' counsel agreed to another meet and confer
19 conference with Flynn on July 28, 2014. *Id.* ¶ 5.

20 The parties conferred on July 28, 2014, and Defendants' counsel followed up with an
21 e-mail dated July 29, 2014 summarizing Defendants' position regarding the fact that their
22 disclosures were adequate under Federal Rule 26. *Id.* ¶ 6, Ex. B (7/28/14 e-mail chain).
23 Defendants also offered to provide another supplemental disclosure to Plaintiffs in an attempt
24 to avoid unnecessary motion practice. *Id.* To that end, Defendants provided a second
25 supplemental disclosure as well as Defendants' responses to Plaintiffs' Request for
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1 Production of Documents on August 4, 2014. *Id.* ¶ 7; Dkt. Nos. 50-6, 50-7. Plaintiffs
2 responded by filing the instant Motion on August 20, 2014. Dkt. 50.

3 III. LEGAL ARGUMENT

4 A. Defendants Have Complied with Federal Rule 26(a) and Regardless, Plaintiffs 5 Have Suffered No Prejudice.

6 Contrary to Plaintiffs' assertions, Defendants' initial disclosure and two supplemental
7 disclosures fully comply with Federal Rule 26. Federal Rule 26(a) simply requires that the
8 parties disclose "the name and, if known, the address and telephone number of each
9 individual likely to have discoverable information...that the *disclosing party* may use to
10 support its claims or defenses." *See* FRCP 26 (emph. added). In their disclosures, Defendants
11 indicated that they may potentially call a custodian of records, and reserve the right to call
12 employees who may have worked on the Montgomerys' loan. Moreover, Defendants
13 subsequently provided Plaintiffs with a copy of their loan file in response to discovery, which
14 contained the identity of various persons who worked on the subject loan. Regardless,
15 Federal Rule 26 does not require that Defendants list every employee that has ever
16 participated in the servicing of Plaintiffs' loan, much less purported "whistleblowers."

17 In this regard, the advisory committee notes to the 2000 amendments to FRCP
18 26(a)(1) are particularly instructive.

19 *Purposes of amendments.* The Rule 26(a)(1) initial disclosure provisions are amended
20 to establish a nationally uniform practice. The scope of the disclosure obligation is
21 narrowed to cover only information that the disclosing party may use to support its
22 position. In addition, the rule exempts specified categories of proceedings from initial
23 disclosure, and permits a party who contends that disclosure is not appropriate in the
24 circumstances of the case to present its objections to the court, which must then
25 determine whether disclosure should be made. Related changes are made in Rules
26 26(d) and (f).

...

24 The initial disclosure obligation of subdivisions (a)(1)(A) and (B) has been
25 narrowed to identification of witnesses and documents that the disclosing party may
26 use to support its claims or defenses. "Use" includes any use at a pretrial conference,
to support a motion, or at trial. The disclosure obligation is also triggered by intended

1 use in discovery, apart from use to respond to a discovery request; use of a document
 2 to question a witness during a deposition is a common example. The disclosure
 3 obligation attaches both to witnesses and documents a party intends to use and also to
 4 witnesses and to documents the party intends to use if—in the language of Rule
 26(a)(3)—“the need arises.”

5 A party is no longer obligated to disclose witnesses or documents, whether
 6 favorable or unfavorable, that it does not intend to use. The obligation to disclose
 7 information the party may use connects directly to the exclusion sanction of Rule
 37(c)(1). Because the disclosure obligation is limited to material that the party may
 8 use, it is no longer tied to particularized allegations in the pleadings. Subdivision
 9 (e)(1), which is unchanged, requires supplementation if information later acquired
 would have been subject to the disclosure requirement. As case preparation continues,
 a party must supplement its disclosures when it determines that it may use a witness or
 document that it did not previously intend to use.

10 *See also Matson v. United Parcel Service, Inc.*, 872 F. Supp. 2d 1131 (W.D. Wash. 2012)
 11 (this Court explained that under Federal Rule 26 requires identification of witnesses the party
 12 intends to call). Hence, under Federal Rule 26, a disclosing party is required to disclose only
 13 information that it may use to support *its own position*. A party is not required to do the
 14 opposing parties’ work for it by disclosing witnesses the party does not intend to use.

15 In addition to contradicting the plain language of the rule, Plaintiffs’ position is
 16 inapposite to Ninth Circuit case law. *See West v. Cavalry Portfolio Services, LLC*, 2014 WL
 17 1744329 (W.D.Wash. 2014) (in addressing motion for summary judgment where party sought
 18 to exclude evidence because witness was not identified in initial disclosures, Court explained
 19 that witness was not identified by name but was identified as a “representative” of Defendant,
 20 and because Plaintiff could not identify any prejudice he suffered as a result of the failure to
 21 name the witness by name, any deficiency was harmless and no sanctions were appropriate);
 22 *Sweeney v. Manorcare Health Services, Inc.*, Case No. C03-5320RJB, 2006 WL 1042015
 23 (W.D. Wash. 2006) (after plaintiff provided an initial disclosure identifying witnesses and
 24 later supplemented to add more potential witnesses without providing full addresses and a
 25 vague description of their anticipated testimony, the court concluded that motion to strike
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1 witnesses and to limit testimony was premature where plaintiff had disclosed all the
2 information presently known to her and she agreed to stipulate to additional depositions).

3 Moreover, a party seeking to challenge the sufficiency of disclosures is under a duty to
4 be diligent in doing so. In *Theoharis v. Rongen*, Case No. C13-1345RAJ, 2014 BL 199478²
5 (W.D. Wash. 2014), this Court, in addressing several discovery motions, explained:

6 Counsel was now suffering the consequences of having neglected this case for nearly
7 six months. The court need not belabor the standards that apply to changing court
8 deadlines, continuing trial deadlines, and otherwise upsetting a case schedule that has
9 been in place for more than seven months. It suffices to say that to prevail on any such
10 request, a party must begin by demonstrating its diligence in pursuing its case or
defense. Ofc. Rongen's counsel cannot demonstrate diligence. Waiting until late
April to begin discussing discovery in a case with a July 21 discovery deadline is not
diligence, it is a cautionary tale to any lawyer hoping to conduct litigation diligently.

11 *Id.* At *3. Here, Defendants met their obligations by identifying a records custodian and
12 reserving the right to call persons who may have worked on Plaintiffs' file. Defendants were
13 not required to identify every person who worked on Plaintiffs' file if Defendants do not
14 intend to call them to testify. Nor were Defendants required to provide Plaintiffs with notice
15 of every pending lawsuit in which they are involved. Defendants provided notice as to who
16 they might potentially call as witnesses, a records custodian, and persons who may have had
17 some involvement with Plaintiffs' file (as identified in their loan file). This information was
18 disclosed to Plaintiffs, and if they found same defective, they had the option to challenge the
19 sufficiency of such disclosures or to engage in discovery seek additional information
20 regarding such potential witnesses. Instead Plaintiffs waited a year to challenge the
21 disclosures, defying the diligence required by the *Theoharis* court.

22 Further, discovery in this matter is not scheduled to close until September 14, 2015
23 and trial is not scheduled for January 11, 2016. See Dkt. 45. Thus, not only have Plaintiffs
24 managed to establish that Defendants' disclosures were inadequate, but they have not and
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26 ² A copy of the opinion is attached to the Downs Declaration as Exhibit C.

1 certainly cannot demonstrate that they have suffered any prejudice as a result any purported
2 (and denied) deficiency.

3 In short, Plaintiffs are free to advance their case as they see fit, and Defendants' initial
4 disclosures have in no way prevented Plaintiffs from engaging in discovery. Here,
5 Defendants' disclosures were proper under Federal Rule 26, and Plaintiffs' arguments to the
6 contrary amount to nothing more than a transparent attempt to create controversy where none
7 exists.

8 **B. Plaintiffs' Own Disclosures Do Not Meet Plaintiffs' Proposed Standards.**

9 As discussed above, Defendants have not run afoul of their requirements under
10 Federal Rule 26(a)(1). Moreover, the instant Motion reveals Plaintiffs' own insincere
11 approach to disclosures. Indeed, if the parties were obligated to disclose all information that
12 could be deemed relevant by the other party, Plaintiffs would be facing severe sanctions of
13 their own.

14 Plaintiffs' Second Amended Complaint charges Defendants with intentionally causing
15 Plaintiff Dennis Montgomery emotional distress and physical harm. "Certainly inducing the
16 Montgomerys to default on their loan obligations..., Bank of America acted outrageously,
17 intentionally, recklessly or at a minimum negligently which caused severe emotional distress
18 for the Montgomerys, which ultimately physically manifested itself in Mr. Montgomery's
19 diagnosed brain aneurysm." Second Am. Compl. 9.3. Defendants do not concede the
20 scientific soundness of Plaintiffs' position that emotional distress can physically manifest
21 itself as a brain aneurysm. However, even if Plaintiffs' position were accepted, there have
22 been many undisclosed events in the life of Dennis Montgomery that were arguably far more
23 stressful than having his vacation home foreclosed mid-bankruptcy.

24 First, as alleged in the separate lawsuit filed by Flynn against Plaintiff Dennis
25 Montgomery on September 28, 2009, Dennis Montgomery is a "pathological liar" who
26 perpetrated a hoax on the federal government. Downs Decl., Ex. D (Complaint in *Flynn v.*

1 *Montgomery*, C.D. California Bankruptcy Court Case No. 2:10-ap-01305-BB), ¶ 33. In
 2 particular, Flynn claims that in the 2000s Montgomery marketed software, created by
 3 Montgomery and owned by eTreppid, that purported to detect Al-Qaeda messages. *See Id.* ¶
 4 19. In November 2005 Montgomery was purportedly exposed “for fraudulent conduct
 5 involving fake testing procedures at eTreppid in a scheme to defraud the U.S. government.”
 6 *Id.* ¶ 23. Despite knowing the “technology” to be a fraud and notwithstanding the fact that
 7 Montgomery did not own the technology, Montgomery continued to obtain investors. *Id.* ¶¶
 8 23-24. Montgomery also purportedly tricked Flynn with his fraud: “On January 23, 2006,
 9 plaintiff met and spoke with Montgomery for the first time. Shortly thereafter, Montgomery
 10 retained plaintiff. For the ensuing 18 months, Montgomery spun the same web of lies and
 11 fraud to plaintiff that he spun to the United States government and to the courts.” *Id.* ¶ 26. In
 12 2007 the FBI unsealed documents establishing that the technology was a hoax. *Id.* ¶ 20. In
 13 addition to charging Montgomery with fraud, Flynn claimed that Montgomery had lied to a
 14 Nevada Federal Court in an attempt to conceal monies paid to Montgomery. *Id.* ¶ 12.

15 Though Flynn’s complaint against Montgomery was later dismissed, Flynn is hardly
 16 the only person to accuse Montgomery of swindling the U.S. government. In its
 17 January/February 2010 issue, *Playboy Magazine* labeled Montgomery “The Man Who
 18 Conned the Pentagon” with an article claiming that Montgomery had not only peddled a fake
 19 software program to the U.S. Military and CIA, but that his bogus intel had caused the
 20 Department of Defense to go to Code Orange in December 2003, putting the whole country
 21 on alert and causing the cancellation of dozens of international flights. Downs Decl., Ex. E
 22 (“The Man Who Conned the Pentagon”) at 1. The article describes a scam involving
 23 billionaire investors, lobbyists and politicians that helped bring the technology to the attention
 24 of top White House aides. *Id.* at 6-9. It was these connections, along with phony
 25 demonstrations, that helped Montgomery convince the CIA, Air Force and Navy that his
 26 software could detect Al-Qaeda transmissions during Al-Jazeera broadcasts. *Id.* at 6. “The

1 company eventually got a contract with the Air Force dealing with aspects of video shot by
 2 unmanned Predator drones. Montgomery claimed his software could automatically recognize
 3 weapons and faces. In 2004, the U.S. Special Operations Command gave eTreppid a \$30
 4 million no-bid contract for ‘compression’ and ‘automatic target recognition.’” *Id.* at 5.

5 The exact amount paid by the federal government for the technology is unknown,
 6 although Montgomery claimed to have been paid \$30 million in contracts with another \$100
 7 million in Defense appropriations. *Id.* at 8. Montgomery and his partner, Warren Trepp, had a
 8 falling out in January 2006 over Montgomery’s share of the government contract proceeds. *Id.*
 9 at 7. “When he left, according to eTreppid, the company’s software had been deleted and the
 10 source code wiped out.” *Id.* Trepp immediately called the FBI, advising that classified tapes
 11 had gone missing and causing Montgomery to lose his security clearance. *Id.* Trepp also sued
 12 Montgomery and his new billionaire investor, and was awarded \$26.5 million. *Id.* at 9-10.

13 Montgomery’s former employee described him as an erratic man who was prone to
 14 temper tantrums (he once threw a steak at a waitress), but who could also be warm and
 15 confiding. *Id.* at 5. The same employee recounted a bizarre tale wherein Montgomery
 16 claimed to have been abducted by aliens: “a spaceship descended on him. They wanted him to
 17 go with them, and he was abducted. Then he came back with extra knowledge.” *Id.*
 18 Montgomery also had a devastating gambling habit, losing “\$422,000 in one day.” *Id.* at 9.
 19 As Flynn pointed out, Montgomery was indicted in 2009 in Nevada for criminal fraud in
 20 connection with obtaining credit from casinos and cashing bad checks. Downs Decl., Ex. D
 21 ¶17. “Montgomery came up with \$250,000 in restitution, which kept him from being
 22 prosecuted.” Downs Decl., Ex. E at 10.³

23
 24 ³ Since 2009, many articles have been published about Dennis Montgomery and his alleged exploits. See Downs
 25 Decl., Ex. F (Dennis Montgomery Wikipedia page). A 2011 New York Times piece argues that Montgomery is
 26 a free man today because the federal government was embarrassed and wanted to hide the incident from the
 public. Downs Decl., Ex. G. Just last month, James Risen featured Dennis Montgomery in his book “Pay Any
 Price: Greed, Power, and Endless War.”

1 In their own initial disclosures, Plaintiffs asserted that they were providing all relevant
 2 document categories. Downs Decl., Ex. H at 8. Yet the disclosures reveal none of the above
 3 events. *Id.* Certainly in a litigation where the Plaintiff has claimed that stress caused him to
 4 suffer a brain aneurysm, facts that during the same time period the Plaintiff was: publically
 5 exposed as a defrauder of the federal government and compulsive gambler; indicted for
 6 passing bad checks; and declared a “pathological liar” by his former lawyer and co-Plaintiff,
 7 would qualify as “relevant.” Thus, despite demanding that Defendants fulfill obligations
 8 outside the scope of Rule 26, Plaintiffs do not hold themselves to the same disclosure
 9 standards. For this reason, as well, Plaintiffs’ Motion should be denied.

10 **C. The Sanctions Demanded by Plaintiffs are Unwarranted.**

11 Here, Plaintiffs’ Motion demands extreme sanctions in the form of: (a) “Evidentiary
 12 exclusion of any Bank of America witness contesting liability in this case.” (b) Prohibition on
 13 “Defendants examining Plaintiffs’ witnesses on rebuttal or cross-examination after Plaintiffs’
 14 examination of its witnesses who dealt with Bank of America employees. This sanction
 15 should apply to both trial and/or depositions.” (c) Preclude Defendants from filing a motion
 16 for summary judgment. Motion at 9-10. Plaintiffs attempt to justify the sanctions by
 17 claiming that Defendants tried to “hide the ball” by not disclosing the names and phone
 18 numbers of witnesses and that Defendants actively tried to conceal the existence of other
 19 lawsuits. *Id.* Even if a violation occurred—which one did not—the sanctions sought are
 20 wildly disproportionate given the procedural posture.

21 If imposition of a sanction would effectively constitute dismissal of a claim, the court
 22 must consider (1) whether the party's noncompliance involves willfulness or bad faith, as well
 23 as (2) the availability of lesser sanctions. *R & R Sails, Inc. v. Ins. Co. of Penn.*, 673 F.3d 1240,
 24 1247 (9th Cir. 2012). Dismissal, striking pleadings, default judgment, and similar dispositive
 25 sanctions are appropriate only in "extreme circumstances" and where the violation is "due to
 26 willfulness, bad faith, or fault of the party." *Obayashi Corp. v. Chartis Specialty Ins. Co.*, No.

1 C11-962 TSZ., 2012 BL 204670 (W.D. Wash. 2012) (quoting *Fair Housing of Marin v.*
 2 *Combs*, 285 F.3d 899, 905 (9th Cir. 2002)) (opinion attached as Downs Decl., Ex. I).

3 As explained above, Plaintiffs are not entitled to the sanctions sought. There is no
 4 prejudice—discovery does not close until September 2015. Plaintiffs have more than enough
 5 time to complete written discovery and depositions on the subjects they now claim to be
 6 central to their litigation. Moreover, Defendants’ first initial disclosures were served in May
 7 2013, and Plaintiffs waited over a year to challenge them. In that time, the disclosures have
 8 been twice supplemented. Defendants have also since produced documents to the Plaintiffs’
 9 requests. Thus, Defendants are moving to compel information and documents they already
 10 possess or could have obtained through the discovery avenues available to them. Finally,
 11 there is no suggestion whatsoever that Defendants acted in bad faith by not disclosing the
 12 names and the documents of which Plaintiffs now complain. As already explained,
 13 Defendants were not obligated to make initial disclosures per the standard Plaintiffs impose.
 14 Moreover, Defendants would have no reason to believe the requested disclosures were even
 15 relevant. As a reminder, this litigation rests largely on Plaintiffs’ claim that their \$2.28
 16 million dollar loan financing their lavish vacation home should have been modified under the
 17 HAMP—an assertion that is downright absurd and vaguely offensive. To quote Tim Massad,
 18 the U.S. Treasury official who oversees HAMP: “We don’t help people who have million-
 19 dollar mansions...We don’t help people who have vacation homes.” Downs Decl., Ex. J.

20 IV. CONCLUSION

21 Plaintiffs’ use their Motion to Compel as a transparent attempt to avoid their own
 22 discovery obligations and as a disingenuous means of making headway on meritless claims.
 23 Defendants have fully complied with their duties under the Rule 26(a)(1). If the Court were
 24 to impose the standard proffered by Plaintiffs, such would suggest that Plaintiffs committed
 25 their own fatal omissions in their disclosures. Regardless, there is simply no justification for
 26

1 the extreme sanctions demanded by Plaintiffs. For all these reasons, Plaintiffs' Motion to
2 Compel and for Sanctions should be denied.

3 Respectfully submitted this 24th day of November, 2014.

4 LANE POWELL, PC

5
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20 successor by merger to Countrywide
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22
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26

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of November, 2014, I electronically filed the foregoing document: **DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO COMPEL AND FOR EVIDENTIARY SANCTIONS** with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

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