

**SCHEDULING ORDER**

MBIA Insurance Corp., v. Countrywide Home Loans, Inc., et al., Index No. 602825/08

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

MBIA INSURANCE CORPORATION

Plaintiff,

-against-

COUNTRYWIDE HOME LOANS, INC.,  
COUNTRYWIDE SECURITIES CORP.,  
COUNTRYWIDE FINANCIAL CORP.,  
COUNTRYWIDE HOME LOANS  
SERVICING, L.P. and BANK OF AMERICA  
CORP.,

Defendants.

Index No. 602825/08

IAS Part 3 (Bransten, J.)

**ORDER  
REGARDING PRETRIAL SCHEDULE**

**ORDER REGARDING PRETRIAL SCHEDULE**

*It is hereby ORDERED:*

1. Discovery Relating to Repurchases:

(a) Within thirty (30) days of any ruling by the Appellate Division on Defendants' appeal of the Order of the Supreme Court, New York County, IAS Part 3 (per Justice Bransten) dated June 30, 2011, and duly entered with the Clerk of the Court on July 1, 2011, granting MBIA's Motion to Compel (Mot. Seq. No. 29) and denying Defendants' Cross-Motion for a Protective Order (Mot. Seq. No. 31) (the "July 1 Order"), Countrywide and BAC shall produce any additional responsive documents and /or serve any supplemental privilege logs for any repurchase-related documents withheld, in whole or in part, on the basis of privilege, or clawed back.

<sup>1</sup> This stipulated pretrial schedule is based upon the parties' current understanding as to the scope of outstanding discovery. Should the scope of discovery change substantially, the parties reserve the right to seek leave of the Court to further modify this schedule.

(b) Within thirty (30) days of any ruling by the Appellate Division on Defendants' appeal of the Order of the Supreme Court, New York County, IAS Part 3 (per Justice Bransten) dated January 25, 2011 and duly entered with the Clerk of the Court on January 27, 2011, denying Defendants' Motion to Compel (Mot. Seq. No. 17) (the January 25 Order), MBIA shall produce any additional responsive documents and/or serve any supplemental privilege logs for any repurchase related documents withheld, in whole or in part, on the basis of privilege, or clawed back.

(c) The parties shall complete the depositions on oral questions of witnesses relevant to MBIA's repurchase-related discovery, including but not limited to, (i) Shareef Abdou; (ii) Karen Jewett; (iii) Debra Minton; and (iv) M. Shane Sands, within thirty (30) days of the completion of any production of additional responsive documents described above in paragraph 1(a).

2. Depositions of Bank of America Witnesses:

(a) MBIA and BAC will reach an agreement on the scheduling of the depositions of witnesses who are former and current employees of BAC within ~~10~~ <sup>10</sup> business days of the Appellate Division's ruling on BAC's motion to stay filed on November 7, 2011.<sup>2</sup>

(b) All <sup>→60</sup>depositions of former and current employees of BAC shall be completed within ~~45~~ calendar days of the Appellate Division's ruling on BAC's motion to stay filed November 7, 2011.

3. Third Party Depositions:

(a) With the exception of any depositions of any borrowers, employers, and/or accountants, the parties shall complete any depositions of third-party witnesses on or before December 22, 2011.

(b) To the extent that MBIA <sup>or Countrywide</sup> seeks to take any depositions of borrowers, employers, and/or accountants, such depositions shall be completed on or before January 31, 2012.

<sup>2</sup> If the Appellate Division grants BAC's motion to stay, paragraphs 3 and 5 of this scheduling order will not apply.

4. Expert Discovery Relating to Primary Liability:<sup>3</sup>

(a) Initial expert reports relating to primary liability against the Countrywide Defendants concerning issues on which each party bears the burden of proof shall be completed on or before ~~December 6, 2011~~ <sup>January 20, 2012</sup> (the "Primary Liability Expert Reports").<sup>4</sup>

(b) The parties shall identify and produce all Reliance Materials<sup>5</sup> on which their experts have relied in formulating the opinions set forth in their Primary Liability Expert Reports on or before the stipulated date for service of the Primary Liability Expert Reports. The parties agree that voluminous spreadsheets, data, etc. will be exchanged in native format.

(c) Expert rebuttal reports responding to the Primary Liability Expert Reports shall be completed on or before ~~January 31, 2012~~ <sup>April 13, 2012</sup> (the "Rebuttal Primary Liability Expert Reports").

(d) The parties shall identify and produce all Reliance Materials on which their experts have relied in formulating the opinions set forth in the Rebuttal Primary Liability Expert Reports on or before the stipulated date for service of Rebuttal Expert Reports. The parties agree that voluminous spreadsheets, data, etc. will be exchanged in native format.

(e) Expert depositions relating to primary liability against the Countrywide Defendants concerning issues on which each party bears the burden shall be completed on or before ~~February 28, 2012~~ <sup>June 1, 2012</sup>.

<sup>3</sup> Nothing in this Stipulated Order Regarding Pretrial Schedule is intended to preclude any party from supplementing or amending any expert report on the basis of additional documents produced or deposition testimony obtained as a result of (i) any ruling by the Appellate Division on Defendants' appeal of the Order of the Supreme Court, New York County, IAS Part 3 (per Justice Bransten) dated June 30, 2011, and duly entered with the Clerk of the Court on July 1, 2011, granting MBIA's Motion to Compel (Mot. Seq. No. 29) and denying Defendants' Cross-Motion for a Protective Order (Mot. Seq. No. 31) (the "July 1 Order"), (ii) any ruling by the Appellate Division on Defendants' appeal of the Order of the Supreme Court, New York County, IAS Part 3 (per Justice Bransten) dated January 25, 2011 and duly entered with the Clerk of the Court on January 27, 2011, denying Defendants' Motion to Compel (Mot. Seq. No. 17) (the January 25 Order); (iii) any documents obtained from commissions for third party subpoenas issued to various borrowers, employers, and accountants; and (iv) any additional documents produced by Countrywide Defendants after October 1, 2011.

<sup>4</sup> In the event that this Court denies MBIA's Motion for Partial Summary Judgment and Motion to Strike Defenses (Mot. Seq. No. 37) and holds that MBIA must establish loss causation, MBIA will not be required to serve and file an expert report on causation until thirty (30) days after this Court's ruling on such motion.

<sup>5</sup> As used herein, "Reliance Materials" refers to spreadsheets, data, and/or other information on which an expert relies in formulating his or her opinions. See Stipulation and Order Regarding Expert Discovery, ¶ 2. The agreement for timing of production of Reliance Materials described in Paragraphs 4(a) and 4(b), *supra*, does not extend to publically available articles, materials produced in discovery, deposition exhibits, or deposition transcripts, which are to be identified pursuant to the provisions of Paragraph 2(b) – (c) of the Stipulation and Order Regarding Expert Discovery.

5. Expert Discovery Relating to Successor Liability:

(a) Initial expert reports on the issue of successor liability, if any, shall be completed no later than 75 days after the Appellate Division's ruling on BAC's motion to stay filed November 7, 2011.

(b) Expert rebuttal reports on the issue of successor liability, if any, shall be completed no later than 30 days after the submission of initial expert reports on successor liability.

(c) Expert depositions on the issue of successor liability shall be completed no later than 14 calendar days after the submission of rebuttal reports on successor liability.

6. Status Conference: A status conference shall be held on or about ~~March 5, 2012~~ <sup>June 7, 2012</sup>.

7. Note of Issue: MBIA shall file a note of issue/certificate of readiness on ~~March 5, 2012~~ <sup>June 7, 2012</sup>.

8. Motions for Summary Judgment:

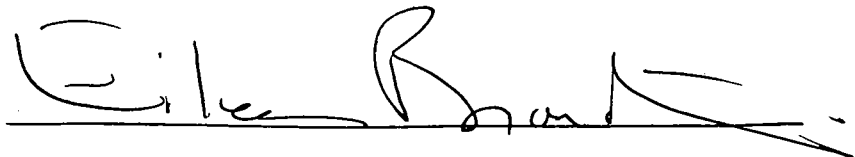
(a) Any motions for summary judgment shall be served by ~~March 23, 2012~~ <sup>July 20, 2012</sup>.

(b) Answering briefs in response to any motion for summary judgment shall be served forty-five (45) days after service of any motions for summary judgment.

(c) Reply briefs in support of summary judgment shall be served fifteen (15) days after service of any answering briefs.

9. Trial of this action will commence on such date as determined by this Court.

Dated: November 21, 2011  
New York, New York



HON. EILEEN BRANSTEN, J.S.C.