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MARINA J BOYD, PRO SE PLAINTIFF  
10951 NATIONAL BOULEVARD, APT 302  
LOS ANGELES, CALIFORNIA 90064  
(310) 663-4811

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES WEST DISTRICT**

MARINA J BOYD, ANITA FAYE BOYD,  
ALEXIS BOYD-HOLLING

Plaintiff,

vs.

CITIMORTGAGE, INC. & SKYWAY  
REALTY, MARK ALTON

Defendants

) CASE NO. SC117126  
)  
) **EX-PARTE APPLICATION FOR ORDER**  
) **SHORTENING TIME FOR HEARING**  
) **PLAINTIFFS DISCOVERY MOTIONS**  
) **COMPELLING FURTHER RESPPONSES**  
) **TO REQUEST FOR DOCUMENTS AND**  
) **THE DEPOSITION OF TRAVIS NURSE**  
) **AND DEMAND FOR SANCTIONS**  
) Hearing Date: September 4, 2015  
) Hearing Time: 8:30am  
) Room: 2<sup>nd</sup> Floor, Department O  
) Presiding Judge: Hon. Lisa Hart Cole  
)  
) COMPLAINT FILED: May 18, 2012

**EX PARTE APPLICATION FOR ORDER SHORTENING TIME FOR HEARING  
PLAINTIFFS DISCOVERY MOTIONS**

Plaintiff, Marina J Boyd, does hereby apply ex parte for an order from this Court to set on shortened time the hearing of Plaintiffs Motion to Compel Further Discovery Responses and Demand for Sanctions filed August 6, 2015 and Motion to Compel the Deposition of Travis Nurse filed concurrently with this Application.

1 Good cause exist for granting this motion because of the ongoing and increasing prejudice to  
2 Plaintiff as a result of “CMI’s” continual resistance and/refusal to submit to authorized methods of  
3 discovery. Plaintiffs have been and continue to be forced to spend hundreds of hours in legal research  
4 to prepare motions to compel and hundreds of hours of investigation in efforts to rebuild the events  
5 which lead to the loss of Plaintiffs Personal Property in the face of “CMI” complete misuse of the  
6 discovery process. This is in addition to the time spent responding to “CMI’s” own repeated  
7 propounding of the same discovery from Plaintiffs.

8 The burden placed on Plaintiff by the actions of “CMI” have interfered with the ability to  
9 make necessary motions to amend, identify expert witnesses and to present to most vigorous and well  
10 researched opposition to “CMI’s” pleadings.

11 Further good cause exist to grant this application, because “CMI” has previously alluded to  
12 the possibility of “Spoliation” of the e-mail documents Plaintiff has requested and additional delay  
13 could cause further spoliation, if such spoliation does exist, or if the spoliation is the result of  
14 systematic purging or deleting of ESI.

15 Further, Travis Nurse is the Citimortgage, Inc. employee responsible for verification of  
16 “CMI’s” discovery responses and Plaintiffs have good cause to examine this witness to determine the  
17 credibility of his oath that “CMI” has met their burden of production as well as his declaration under  
18 oath in opposition to Plaintiffs Motion to Compel further Responses in Federal Court. Despite “CMI”  
19 having selected this individual as a witness to verify their discovery responses, counsel for “CMI”  
20 refused to confer with Plaintiff for several weeks regarding the scheduling of his Deposition, and upon  
21 Notice of Deposition of Travis Nurse by Plaintiffs, “CMI” ignored Plaintiffs multiple subsequent  
22 efforts to confer in an effort to overcome their objections.

23 Currently, the Motion to Compel Further Discovery Responses is scheduled for hearing on  
24 February 17, 2016 and the Motion to Compel the Deposition of Travis Nurse is scheduled for February  
25 2, 2016. While it might typically be appropriate to schedule the hearing of such discovery motions to  
26 allow time for the parties to resolve the disputes informally, not only has this case already eclipsed  
27 three years pending, but parties have been attempting to resolve the same discovery dispute for over a  
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1 year. During that period, there has been no substantive progress, and “CMI” and their counsel has  
2 instead manipulated the meet and confer requirements in effort to prevent Plaintiff from being able to  
3 timely motion the court for relief.

4 For these reasons, Plaintiff asked that the court will advance the hearing on both motions to  
5 October 6, 2015 at 8:30 am, or at a sooner time which the Court may accommodate.

6 This Motion is based on this notice, the points and authorities set forth below, the attached  
7 declaration of Marina J Boyd, attached exhibits, oral argument, and the complete files and records of  
8 this action.

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DATED: September 2, 2015

By:  \_\_\_\_\_

MARINA J BOYD PLAINTIFF

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiff Marina J Boyd hereby submits this ex-parte application for an Order setting the hearing of both discovery Motions for Tuesday, October 6, 2015.

**II. BACKGROUND**

On August 6, 2015 Plaintiff filed a Motion to Compel “CMI” to provide Further Discovery Responses and Demand For Sanctions which is currently set for hearing on February 17, 2016 based on the first available date on the Court Reservation System. Plaintiffs Motion to Compel the Deposition of Travis Nurse, employee of “CMI” is filed concurrently with this Application and is currently set for Hearing on February 2, 2016.

The discovery Plaintiff is seeking to compel in the first motion is the production of e-mail conversations which were first demanded in March 2014.

On March 6, 2015, Plaintiff filed a motion to Compel Further Responses, however despite almost a year of conferring to resolve the despite and having well met the burden to meet and confer under California Code of Civil Procedures. The US District Court denied Plaintiffs motion because the previous meet and confer efforts did not meet the standard required by the Local Rules of that U.S. District Court, Central District of California.

The parties continued their efforts to meet and confer following the US District Courts ruling, and while some progress was made, there was no progress made on the most substantive issue of the production of e-mail documents regarding the disposal of Plaintiffs Personal Property, which is the subject of the currently pending Motion to Compel Further production.

During the meet and confer process, “CMI” and their counsel have both suggested that production is complete, however, Plaintiff advised that in order to avoid a renewed motion to compel, Plaintiff wished to take the Deposition of Travis Nurse, the employee for Citimortgage, Inc. who certified their discovery responses and who also submitted testimony under oath, by way of declaration

1 in opposition to Plaintiffs Motion to Compel Further Responses in US District Court to determine  
2 whether their search efforts were sufficient, to ascertain the credibility that additional searches would  
3 either be overly burdensome, and/or unlikely to lead to discoverable documents, and to determine if  
4 production of documents was complete pursuant to California Discovery Act.

5 On at least four separate occasions, Plaintiff sought to meet and confer with counsel for “CMI”  
6 regarding the setting of deposition for Travis Nurse, however after those efforts were ignored, Plaintiff  
7 noticed the Deposition of Travis Nurse to take place on August 31, 2015 at the offices of Wolfe and  
8 Wyman, LLC on August 5, 2015. The notice was based on providing adequate time for “CMI” to  
9 produce the witness for deposition and based on previous discussions with counsel for “CMI” in  
10 which they stated that depositions for employees who lived out of state would take place at the offices  
11 of Wolfe and Wyman, LLC (Plaintiff expects to depose 5-10 employees of “CMI” depending on  
12 whether or not e-mail documents are ever produced, and all but one employee witness for “CMI”  
13 work out of their offices in O’Fallon, Missouri or Irving, TX and live in close proximity to those  
14 locations).

15 On August 26, 2015 Plaintiffs received notice from “CMI” of their objection to the Deposition  
16 of Travis Nurse and Plaintiff made four separate attempts to contact counsel for “CMI” in effort to  
17 resolve their objections, however Plaintiffs messages were ignored by until Wednesday, September 2,  
18 2015 when they received notice of this ex-parte application.

19  
20 **III. LEGAL STANDARD**

21 **A. The Court has the Authority to Grant this Request**

22 California Rules of Court 3.503 states that “The assigned judge, on terms that are just, may shorten or  
23 extend the time within which any act is permitted or required to be done by a party”. Further,  
24 California Code of Civil Procedures §128(a) (5)(8) states that Every court shall have the power “to  
25 control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any  
26 manner connected with a judicial proceeding before it, in every matter pertaining thereto”, and “To  
27 amend and control its process and orders so as to make them conform to law and justice”.

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Judicial Standard of Case management maintains that “trial courts should be guided by the general principle that from the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, preparation, and court events is unacceptable and should be eliminated. It furthers states that “the judicial offer should take necessary steps to eliminate all unnecessary delays”.

After almost of year of efforts to meet and confer with “CMI” to resolve discovery disputes, parties have reached an impasse, and without determination on these motions, this case will suffer several additional months of delay, beyond the already significant delays which have been experienced in this cast. If Plaintiff is required to proceed with preparation for trial prior to the hearing of these motions, it would cause Plaintiff great prejudice in having to pursue expensive alternatives, such as multiple additional depositions, subpoenas, expert witnesses and investigations in the interim which could subsequently prove to be duplicative. Alternatively, waiting almost six additional months for the hearing of these motions would be contrary to the courts case management objectives, especially in light of the potential that obstructions to discovery may not immediately desist following the hearing of the motions.

**B. Continued Delay in Hearing Plaintiffs Motions would cause Prejudice to Plaintiffs**


Plaintiffs has continued to be open to any and all efforts to meet and confer with counsel for “CMI” regarding outstanding discovery issues, even since the filing of the motions, however, in most instances, “CMI” has ignored Plaintiffs efforts to meet and confer until Plaintiff Makes a Motion to Compel, then, thereafter, their idea of meet and confer essentially consist of efforts to deter Plaintiff from pursuing discovery. A delay in hearing of Plaintiffs demand for sanctions which are included in the Discovery motions is extremely prejudicial to Plaintiffs because Plaintiff has been forced to expend resources which are needed to continue preparing this case for trial on Motions to Compel “CMI” to comply with properly propounded discovery request and other efforts to overcome the discovery abuses of “CMI”.

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The hearing date Plaintiff is requesting provides time far in excess of the statutory requirement for “CMI” to respond to or oppose Plaintiffs motions (California Code of Civil Procedure §1005(b) Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 16 court days before the hearing), and as such, granting this application does not cause prejudice to “CMI”.

For the reason stated above, Plaintiffs respectfully request that this motion be granted.

DATED: September 3, 2015

By:  \_\_\_\_\_

MARINA J BOYD PLAINTIFF