

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION - ATLANTIC COUNTY
DOCKET NO. F-10209-08

BANK OF NEW YORK as TRUSTEE for the
CERTIFICATE HOLDERS CWABS, INC.
ASSET-BACKED CERTIFICATES, SERIES
2005-AB3,

Plaintiff

vs.

VICTOR and ENOABASI UKPE,

Defendants

VICTOR and ENOABASI UKPE,

Counterclaimants and
Third-Party Plaintiffs

vs.

BANK OF NEW YORK as TRUSTEE for the
CERTIFICATE HOLDERS CWABS, INC.
ASSET-BACKED CERTIFICATES, SERIES
2005-AB3,

Defendant in the
Counterclaim

and

AMERICA'S WHOLESALE LENDER;
COUNTRYWIDE HOME LOANS, INC.;
MORGAN FUNDING CORPORATION;
ROBERT CHILDERS; COUNTRYWIDE
HOME LOANS SERVICING, LP; PHELAN
HALLINAN & SCHMIEG, P.C.,

Third-Party Defendants

March 12, 2010

Oral sworn deposition of ANA ALVARADO, 5537 Monthaven Drive, Fort Worth, Texas, , was taken at the law office of ARCHER & GREINER, ESQUIRES, One Centennial Square, Haddonfield, New Jersey, before Linda S. Scholz, Certified Court Reporter and Notary Public of the State of New Jersey, on the above date, commencing at 10:15 a.m., there being present:

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BY: SABRINA M. ROSE-SMITH, ESQUIRE
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Countrywide Home Loans Servicing, LP

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Attorneys for Third-Party Defendant
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ALSO PRESENT:
Judith Romano, Esquire

1
2
3 (By agreement of counsel, the signing,
4 sealing and certification of the deposition
5 were waived, and all objections except as to
6 the form of the question were reserved to the
7 time of trial.)
8
9

10 I N D E X
11

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1 ANA ALVARADO,
2 having been duly sworn, was examined and
3 testified as follows:

4 (Alvarado-1 Notice in Lieu of
5 Subpoena marked for identification.)

6 (Alvarado-2 Cover letter dated
7 2-18-10 marked for identification.)

8 BY MR. MALONE:

9 Q State your full name for the record,
10 please.

11 A Ana Sylvia Alvarado.

12 Q What is your address?

13 A 5537 Monthaven Drive, Fort Worth,
14 Texas, 76137.

15 Q Are you employed?

16 A Yes.

17 Q By whom?

18 A Bank of America Home Loan Servicing,
19 L.P.

20 Q And is that a business that was
21 formerly known as Countrywide Home Loan Servicing,
22 L.P.?

23 A That's correct.

24 Q Had you worked for that business when
25 it was known as Countrywide Home Loan Servicing,

1 L.P.?

2 A Yes.

3 Q For how long have you worked for
4 Countrywide Home Loan Servicing, L.P. slash now
5 known as Bank of America -- BAC Home Loan Servicing,
6 L.P.?

7 A A little over nine years.

8 Q And what is the location of the
9 business that you work for?

10 A Fort Worth, Texas.

11 Q Same address you just gave?

12 A No.

13 Q What address?

14 A 5401 North Beach Street, Fort Worth,
15 Texas, 76137.

16 Q What is your title?

17 A Operations manager.

18 Q For how long have you been in that
19 position?

20 A Two years.

21 Q Prior to that what was your position?

22 A Foreclosure team leader.

23 Q Before that?

24 A Customer service team leader.

25 Q And before that?

1 A Customer service representative.

2 Q And before that?

3 A That was it.

4 Q Before going to work for -- I'm going
5 to call it Countrywide Home Loan Servicing, L.P.,
6 I'm going to shorten it, --

7 A Okay.

8 Q -- okay? But I also, by that name,
9 include the present business, the new name.

10 A Okay.

11 Q Understood?

12 A Yes.

13 Q For how long -- before you went to work
14 for Countrywide Home Loan Servicing, L.P. who did
15 you work for?

16 A Neilson Media Research.

17 Q How long did you work there?

18 A Roughly three and a half years.

19 Q And before that?

20 A At-home mom.

21 Q Okay. Briefly describe for us your
22 educational background.

23 A Graduated high school, one year of
24 college.

25 Q In your current position -- I'm sorry,

1 the name again of your current position, your title?

2 A Operations manager.

3 Q As the operations manager for
4 Countrywide Home Loan Servicing, L.P. what are your
5 duties?

6 A I oversee a team of 20 specialists who
7 monitor contested cases.

8 Q Do you, yourself testify in --
9 routinely testify in depositions and trials?

10 A When needed.

11 Q When was the most recent time that you
12 testified in a trial?

13 A Two and a half weeks ago.

14 Q What was the name of the case?

15 A It was -- I can't remember off the top
16 of my head. I can't remember.

17 Q Do you remember the name of the
18 defendant, the homeowner?

19 A Honestly I can't.

20 Q Where did the trial take place?

21 A Ocala, Florida.

22 Q Was it in state court or federal court?

23 A State court.

24 Q Do you remember the name of the judge?

25 A Judge Lambert.

1 Q And before that trial two weeks ago,
2 when was the most recent trial you testified at?

3 A It was a hearing.

4 Q Where was the hearing?

5 A Saint Petersburg.

6 Q Do you remember the name of the case?

7 A I don't want to give wrong information;
8 no, I can't.

9 Q Do you remember the name of the
10 homeowner?

11 A I wasn't dealing with the homeowner.
12 No, I don't remember.

13 Q What did the matter deal with?

14 A Short sale.

15 Q And do you remember what judge it was
16 before?

17 A No.

18 Q State court again?

19 A Yes.

20 Q Approximately how many times a year do
21 you appear in a courtroom to testify either in a
22 hearing or a trial?

23 A If I have to average, once a month.

24 Q And in addition, approximately how many
25 times a year do you appear at depositions to testify

1 on behalf of -- in the course of contested matters?

2 A Are you talking about 2009 or 2010?

3 Q Let's take it together. I'm trying to
4 get an average picture.

5 A Probably about six or seven times.

6 Q To whom do you report?

7 A Jonathan Hyman.

8 Q And what is Mr. Hyman's title?

9 A Vice president.

10 Q When you testify on behalf of
11 Countrywide Home Servicing, L.P., as is the case in
12 this deposition, do you understand that you're
13 appearing as a representative of your employer?

14 A Yes.

15 Q And do you understand that your answers
16 will bind your employer?

17 A Yes.

18 Q Do you understand that you're
19 testifying under oath?

20 A Yes, sir.

21 Q And do you understand you have to
22 answer honestly, and if you knowingly answer falsely
23 you're subject to punishment?

24 A Yes, sir.

25 Q What are the criteria for your job?

1 A Foreclosure experience, mortgage
2 experience.

3 Q Do you have any other sources of income
4 other than this job?

5 A No.

6 Q Okay. I show you what has been marked
7 as Alvarado Exhibit 1 and also Alvarado Exhibit 2
8 and ask you to briefly look at those.

9 MS. ROSE-SMITH: Counsel, do you have
10 copies for me or are we going to share?

11 MR. MALONE: If you can share for the
12 time, because I have limited copies. But we can
13 have copies made, maybe at the break. And I have
14 copies for Dashika.

15 MS. WELLINGTON: Thanks. Sabrina, do
16 you want to use my copies?

17 MS. ROSE-SMITH: No, I've seen it
18 before.

19 MS. WELLINGTON: The subpoena is one?

20 MS. ROSE-SMITH: Yeah, the subpoena is
21 one and then the cover letter is two.

22 MR. MALONE: Subpoena is one.

23 MS. WELLINGTON: Thanks.

24 BY MR. MALONE:

25 Q Drawing your attention to Exhibit 1,

1 have you seen it before today?

2 A Yes, sir.

3 Q Did you review the subpoena prior to
4 appearing today?

5 A I went over it with counsel, yes.

6 Q And would you describe for the record
7 what efforts you undertook to comply with the
8 subpoena?

9 A I located information and provided it
10 to my counsel.

11 Q And to your knowledge has your counsel
12 been provided with all of the items called for in
13 the subpoena?

14 A To the best of my knowledge I did not
15 provide all the information.

16 Q Which items were you not able to locate
17 for your counsel?

18 A I did not say I could not locate, I
19 said I wasn't the only one who obtained all the
20 information for her.

21 Q Have you brought with you today any of
22 the records called for in the subpoena?

23 A I brought the collateral file.

24 Q Could you briefly describe for us what
25 you mean by the collateral file?

1 A All original documents; the mortgage,
2 the legal description, title insurance policy, the
3 note.

4 Q Okay. And which is the note? Could
5 you show me the note again, please?

6 MR. MALONE: For purposes of the
7 deposition I do want to have it marked as an
8 exhibit.

9 MS. ROSE-SMITH: Oh, no. You can have
10 a copy of it marked as the exhibit. We're not
11 handing that over to the court reporter or anybody
12 else.

13 MR. MALONE: Fine. Can we arrange to
14 have --

15 MS. ROSE-SMITH: You guys have copies.
16 It's Bony-1 through 58, or something like that.
17 It's also CHLS or CWB, I forget. We provided that
18 information to you in advance of the Bony
19 deposition.

20 MR. MALONE: I hear you. I would like
21 a copy of this marked to represent what the witness
22 has produced.

23 MS. ROSE-SMITH: Okay. Want to do that
24 right now or do you want to ask questions and do it
25 at a break?

1 MR. MALONE: We can do it at a break.

2 MS. ROSE-SMITH: Okay.

3 MR. MALONE: We can do it at a break.

4 BY MR. MALONE:

5 Q Within the collateral file there are a
6 series of documents that have been put in a holder.
7 Do you see that? And the first of those documents
8 is the Interest Only Adjustable Rate Note. Is that
9 correct?

10 A Yes.

11 Q And on the third page there is the
12 wording Pay to the Order Of, ending in managing
13 director. Do you see that, --

14 A Yes.

15 Q -- of the note? And is that a stamp,
16 to your knowledge?

17 A I would not know.

18 Q Is that an original signature, to your
19 knowledge? Does it appear to be a stamp?

20 A It appears to be a stamp, yes.

21 Q And in addition to the collateral file,
22 what other documents did you produce today pursuant
23 to the subpoena?

24 A That's all I have produced.

25 MS. ROSE-SMITH: I'll represent for the

1 record we have been producing items to you guys on a
2 rolling basis the last two weeks and a number of
3 them are responsive to the subpoena.

4 And although Countrywide still has unresolved
5 objections to the subpoena, we're appearing today as
6 pursuant to the Court's order.

7 MR. MALONE: Um-hmm. And it's your
8 position -- and I would ask if you have any kind of
9 index available for us which tells us which
10 documents, in your opinion, apply to the numbered
11 paragraphs of this subpoena?

12 MS. ROSE-SMITH: You want me to index
13 the production for you?

14 MR. MALONE: I'm asking you if you have
15 an index that tells us that a particular item that
16 you have produced is responsive, for example, to
17 paragraph 24 of the --

18 MS. ROSE-SMITH: You know what? I kind
19 of do, in my car. I actually had a paralegal put
20 them in various different file folders. I don't
21 need it, you can have it.

22 I don't usually don't give away my paralegal's
23 work for free, but if it's going to help you out and
24 get the deposition moving, I'm ready to do it.

25 MR. MALONE: It will. Next break?

1 MS. ROSE-SMITH: Happy to do so.

2 MR. MALONE: Thank you.

3 MS. ROSE-SMITH: I will say that I
4 don't know, though, whether or not the numbers
5 correspond with the original subpoena or the letter
6 that you sent later which repeated all of the
7 different things in the subpoena and added a couple
8 of additional subject areas.

9 MR. MALONE: Could I have this marked
10 as Alvarado-3, please?

11 (Alvarado-3 Letter dated 3-4-10 to
12 Mr. Oetheimer from Abigail Sullivan marked
13 for identification.)

14 BY MR. MALONE:

15 Q Miss Alvarado, I show you a letter
16 dated March 4th, 2010 from South Jersey Legal
17 Services, Abigail Sullivan, who is sitting to my
18 left, to Mr. Richard Oetheimer of the Goodwin and
19 Procter law firm.

20 As I show it to you I ask you; do you know
21 Mr. Oetheimer?

22 A No.

23 Q Have you ever spoken to him?

24 A No, sir.

25 Q I ask you to take a look at that letter

1 briefly. Have you seen it before today?

2 A Yes, sir.

3 Q Did your counsel advise you that these
4 would be the subject matter areas about which we
5 would be deposing you today?

6 A We went over questions, yes.

7 Q And the first item called for in A-3 is
8 the entire Referral Account Detail Report dash
9 111615840 containing the referral of the Ukpe
10 foreclosure matter from Countrywide Home Loan
11 Servicing to Phelan, Hallinan and Schmieg.

12 Have you produced that document today?

13 A We don't have that document available.
14 That information is pulled from Phelan's office when
15 we refer it over.

16 Q Could you explain what that means, that
17 information is pulled?

18 A It's an automated referral that's
19 available on our Business Partners Interface where
20 the actual foreclosure counsel will pull the
21 information off.

22 Q Given your years of experience with
23 Countrywide Home Loan Servicing, could you describe
24 physically what happens with the referral documents
25 such that it's no longer available to you when you

1 make the referral to the law firm?

2 MS. ROSE-SMITH: Objection.

3 BY MR. MALONE:

4 Q You can answer the question.

5 A The information is on an automated
6 system along with multiple loans that are assigned
7 to foreclosure counsel at that time.

8 So once it's auto referred the information is
9 issued on a Business Partners Interface where
10 foreclosure counsel can pull all the required
11 information off of printing and such.

12 Q And Countrywide Home Loan Servicing no
13 longer retains a copy of the referral document, do I
14 understand you correctly?

15 A Their referral information is on our
16 AS400 system, but the actual detail recording that
17 you're requesting in your question number one is
18 issued only to the foreclosure counsel.

19 Q And you have no record of what was
20 issued to the foreclosure counsel?

21 MS. ROSE-SMITH: Objection.

22 BY MR. MALONE:

23 Q Do you have any record of what was
24 issued to the foreclosure counsel?

25 A Information located on our AS400

1 system.

2 Q And then to get that information that
3 was issued to foreclosure counsel how would you
4 retrieve it?

5 A Looking on our AS400 screens.

6 Q When you looked on the AS400 screen
7 what would you input in order to pull up the
8 information?

9 A I would only have to input the loan
10 number to view the information.

11 Q Okay. And would that loan number give
12 you the entire report that was sent to counsel?

13 A When we send it to counsel they pull
14 what -- this is called the Referral Account Detail
15 Report. That's not what we view on our system.

16 Q I understand. But you sent something
17 to counsel such that when counsel retrieved it it
18 was approximately a 29 page report.

19 Do you maintain on your end a copy of what you
20 sent to counsel?

21 MS. ROSE-SMITH: Objection.

22 THE WITNESS: That information is
23 located on our AS400 system.

24 MR. MALONE: We're going to ask you to
25 produce, pursuant to the subpoena, the information

1 on the AS400 system responsive to item one --

2 MS. ROSE-SMITH: We already did.

3 MR. MALONE: -- of the March 4, 2010
4 letter.

5 I can tell you that we have looked and we've
6 not seen it, so --

7 MS. ROSE-SMITH: Well, I can tell you
8 that we've produced it. And perhaps at a break I
9 can show you what it looks like.

10 MR. MALONE: Actually, it would be good
11 to take a break right now, it's that fundamental.

12 MS. ROSE-SMITH: Okay.

13 (Brief recess.)

14 MS. ROSE-SMITH: So this is what I told
15 you I did, which anybody in your office could also
16 do. It's all there and you can look at it.

17 MR. MALONE: I want you to know that
18 the Volunteer Counsel in South Jersey Legal Services
19 do not have the resources of Goodwin and Procter.
20 So we don't have any time to do it.

21 MS. ROSE-SMITH: Do you?

22 MR. MALONE: Not to be argumentative.

23 MS. ROSE-SMITH: That doesn't mean that
24 it's Goodwin Procter's job to do it for you.

25 Let me show you how this works. All I did was

1 have somebody go through and try to figure out as
2 best we could -- and we couldn't do it perfectly
3 because there's a lot going on in the letter -- so
4 all we did was to try to match up from the various
5 productions that we had copies of, everything in the
6 way that it was responsive.

7 You can use this today as much as you want.

8 MR. MALONE: Okay.

9 MS. ROSE-SMITH: At the end of the day
10 I'm going to take it back. This one wasn't a
11 Redwell, but I needed the Redwell for something
12 else, so I took it out.

13 MR. MALONE: Okay.

14 MS. ROSE-SMITH: This is a number of
15 invoices that were already produced to you. They
16 don't actually match up with anything in there.

17 This is the AS400 we were just talking about.

18 MR. MALONE: Let me --

19 MS. ROSE-SMITH: Don't get it out of
20 order.

21 MR. MALONE: I'll do my best.

22 Let's start with what counsel from Goodwin
23 Procter has represented is the AS400 which has been
24 marked CW-Ukpe-01004 through 01088.

25 And can I have that marked for identification?

1 MS. ROSE-SMITH: Yeah, I don't care.

2 MR. MALONE: Can I have this marked as
3 Alvarado-4?

4 (Alvarado-4 Printout from AS400 pages
5 CW-UKPE-01004 to CW-UKPE-01088 marked for
6 identification.)

7 BY MR. MALONE:

8 Q Miss Alvarado, I show you what has been
9 marked as Alvarado-4. You heard your counsel's
10 representations, but I'd ask you to describe for us
11 in your words what that exhibit represents.

12 A It's a collection of all of our AS400
13 data, all communications made to the homeowner, all
14 notations on the account.

15 Q Does it have anything to do with
16 paragraph one of Alvarado-3 requesting the entire
17 Referral Account Detail Report 111615840?

18 A As I stated before, the detailed report
19 is something that the foreclosure firm pulls from
20 the Business Partners Interface.

21 All the information that's contained here is
22 actually downloaded, they pull different reporting
23 mechanisms. That's the report mechanism that you're
24 currently looking at. The information is in here.

25 Q Could you point out for us, please,

1 where the information in the referral report that
2 was sent to start this suit that told the law firm
3 to bring a foreclosure action and told the law firm
4 in whose name to bring the action, who should be the
5 plaintiff, where that appears in the exhibit?

6 MS. ROSE-SMITH: Objection.

7 THE WITNESS: I will need the report to
8 be able to identify what items you're asking for.

9 MR. MALONE: Actually, so far in
10 discovery we've received two documents, somewhat
11 different, so let me have them marked as separate
12 exhibits.

13 Let's make the first Alvarado-5, it's
14 captioned Referral Account Detail Report dash
15 111615840. It's also Bate stamped PHS 10 and it has
16 a date in the lower right-hand corner as part of --
17 appears to be part of some stamp, of three slash ten
18 slash 2008. So that will be Alvarado-5.

19 (Alvarado-5 Referral Account Detail
20 Report pages PHS 10 and PHS 11 marked for
21 identification.)

22 MR. MALONE: And then another copy of
23 the Referral Account Detail Report Bate stamped PHS
24 439 and 440, and it has a date stamp on the bottom
25 right-hand corner of three slash two slash 2009.

1 Let's make that A-6.

2 (Alvarado-6 Referral Account Detail
3 Report pages PHS 439 and PHS 440 marked for
4 identification.)

5 BY MR. MALONE:

6 Q Okay. I show you what has been marked
7 as Alvarado-5 and Alvarado-6. And can I ask you to
8 examine those two, first starting with five?

9 Can you tell us what it is? Alvarado-5, I'm
10 sorry, is the one marked PHS 10.

11 A Appears to be a Referral Account Detail
12 Report.

13 Q From whom?

14 A I can not -- from Phelan's office.

15 Q I'm sorry?

16 A From foreclosure counsel's office.

17 Q Foreclosure counsel has testified that
18 they received that report from someone. Do you have
19 any idea who they received that report from?

20 A It's downloaded from the Business
21 Partner Interface.

22 Q Okay. And the word business partner
23 has now just been used by your counsel and I believe
24 you also mentioned it earlier, is that correct?

25 MS. ROSE-SMITH: I don't believe that I

1 used the word business partner. I think the witness
2 used it more than once.

3 MR. MALONE: You just used it in your
4 response, in your colloquy.

5 MS. ROSE-SMITH: I don't know what
6 you're talking about. But let's keep talking.

7 BY MR. MALONE:

8 Q Rather than go back on the record, the
9 word business partner as it's been used this
10 morning, what do you mean by business partner, the
11 phrase?

12 A Somebody that we're working in
13 conjunction with to service our loans.

14 Q Okay. And is that someone a default
15 sub servicer?

16 A Not that I'm aware of.

17 Q Who is the someone you're working with?
18 Who is that business partner?

19 A Foreclosure counsel, bankruptcy
20 counsel.

21 Q In this case in the context of the
22 Referral Account Detail Report, Alvarado-5 and
23 Alvarado-6, who is the business partner you're
24 talking about?

25 A Phelan Hallinan.

1 Q I'm sorry? Phelan Hallinan? Are you
2 aware that they have -- they're the law firm that
3 brought the foreclosure action in this case?

4 A We hired them to file the complaint.

5 Q Do you know who sent them the referral
6 report?

7 A It was sent automated through the
8 Business Partner Interface.

9 Q Okay. And who are the participants in
10 the Business Partner Interface?

11 A Would you explain?

12 MR. MALONE: Could I have the last
13 answer read back, please?

14 (The court reporter read back the
15 following:

16 "Answer: It was sent automated through
17 the Business Partner Interface.")

18 BY MR. MALONE:

19 Q From what I understand from your
20 answer, is the document -- the referral document
21 sent over a computer system?

22 A The information is uploaded to the
23 computer system, yes.

24 Q And when it's uploaded who does the
25 uploading?

1 A It's automated; once it reaches a
2 certain default date.

3 Q Prior to the automated aspect where it
4 reaches the default date, who enters the input --
5 who enters the information that's uploaded?

6 A That would be a foreclosure technician.

7 Q Employed by whom?

8 A Bank of America.

9 Q And where are they located?

10 A I would have to see who it's assigned
11 to.

12 Q Could you tell from the AS400
13 information what technician the Ukpe matter was
14 assigned to?

15 A Yes. It was assigned to many different
16 people.

17 Q I'm sorry?

18 A It was assigned to many different
19 people starting at ATR001C.

20 Q And that's on -- that's on Alvarado
21 exhibit 4 Bate stamp page CW-Ukpe-01062, is that
22 correct?

23 A Yes.

24 Q And continuing to where?

25 A What do you mean?

1 Q Where does the information relating to
2 the Referral Account Detail Report, Alvarado-5 and
3 6, end?

4 MS. ROSE-SMITH: Objection. I believe
5 she said that what was on that page was the
6 technician. So what you're asking is where do the
7 pages with the -- that list the technician end?

8 THE WITNESS: I don't see a technician
9 listed on the report. Are you looking for the
10 technician's name or are you looking for the
11 information?

12 BY MR. MALONE:

13 Q Let's break it down in two parts.
14 First the technician who uploaded information into
15 the interface, into the computer system prior to
16 default. Who are those technicians? Who was or who
17 were those technicians?

18 A There are multiple technicians; they're
19 all listed on the loan in the documentation right
20 next to the date.

21 Q And can you tell us who the first
22 technician was time wise? Is there any way of
23 looking at this record and determining who was the
24 first technician who uploaded information into the
25 system?

1 MS. ROSE-SMITH: Counsel, are you
2 asking about uploading any information or
3 information related to the default?

4 MR. MALONE: Information on the report
5 related to the default.

6 THE WITNESS: L-Y-O-N -- L-Y-O-U-N-G.

7 BY MR. MALONE:

8 Q You're referring to an entry on
9 CW-Ukpe-1062, correct?

10 A Yes.

11 Q And it's -- it follows the heading
12 Section 13-D2 and followed by a date. Is that
13 correct?

14 A Yes.

15 Q And can you explain for us how this
16 report is set up? What the sections represent?

17 A Each section is every time something is
18 documented on the loan. So every time a review is
19 done, correspondence received, e-mail sent, the
20 information is issued in sections and dated.

21 Q Can you tell us where on the AS400
22 information there's an indication that a LandSafe
23 Title order status is complete, as reflected on
24 Alvarado Exhibit 5?

25 A Section 14 is listed as title has been

1 ordered through LandSafe. Loan will be assigned to
2 Phelan, Hallinan and Schmieg, attorney number,
3 Section 14.

4 Q Okay. I see that on CW-Ukpe-01062, and
5 there's a date of February 22nd, 2008. Is that
6 correct?

7 A Yes.

8 Q Okay. And who orders the title through
9 LandSafe? Is that the technician who made the entry
10 or someone else?

11 A The technician who made the entry.

12 Q And how is that done? Is it automated,
13 does the technician push a button and put
14 information in or pick up a phone or write a letter?

15 A They go onto the LandSafe website, they
16 place the loan number and they put the attorney
17 information so it can be forwarded to the
18 foreclosure attorney.

19 Q And I take it that the technician has
20 access to the LandSafe computer system, is that
21 correct?

22 A No, they do not.

23 Q Okay. What do they have access to?

24 A They have access only to order, to make
25 orders, to submit requests.

1 Q So they have some limited access to the
2 LandSafe system?

3 A They can only submit requests to the
4 LandSafe system.

5 Q And is there a form by which a
6 technician places the request for LandSafe work?

7 A They enter -- or they submit the
8 request. It's a request, not a form.

9 Q And is that request captured in some
10 way other than the entry you have just shown us, the
11 AS400 entry?

12 A No, that's where it's located, that's
13 where the information is located.

14 Q Is there any record kept by Countrywide
15 Home Loan Servicing that, in fact, LandSafe received
16 the request?

17 A We would bill for the title report in
18 the fee due section.

19 Q Okay. And you're referring to
20 CW-Ukpe-01009, an entry with a code 10067 and a date
21 of March 10th, 2008. Is that correct?

22 A Yes, sir.

23 Q And that's all part of Alvarado Exhibit
24 4. Could you tell us, please, who submitted the
25 bill to you? It's a bill for \$300 for title fees.

1 A LandSafe Title.

2 Q And how does LandSafe Title submit that
3 bill? Is there an invoice from LandSafe Title?

4 A It come to their LandSafe -- I believe
5 their data base, and it interacts with ours and we
6 go ahead and process payment.

7 Q So does it come in as an invoice, an
8 electronic invoice?

9 A Yes.

10 Q And I do not believe we have -- I
11 believe we've requested, but we've not received that
12 electronic invoice from LandSafe.

13 MR. MALONE: Unless you can represent
14 to me it's in the several thousand documents you
15 have produced so far?

16 MS. ROSE-SMITH: I don't know, I'd have
17 to have look at my index, which I don't have with
18 me.

19 MR. MALONE: Then we'll make an
20 appropriate request for it.

21 BY MR. MALONE:

22 Q Is \$300 a standard charge, to your
23 knowledge and experience, for the title fee work?

24 A Sounds about right, yes.

25 Q Oh, okay. Can you explain to us the

1 other entries? There's a code, there's a date,
2 there's an amount description and there's a type
3 ending balance and a key and a batch sequence.

4 What do each of those entries relate to in
5 terms of the title fee entry code 10067 on
6 CW-Ukpe-01009?

7 A Starting with the transaction code,
8 that represents the actual item that's on there.
9 It's labeled as title fees. The date that we
10 received or made payment on the invoice, the amount
11 of the invoice.

12 600 stands for a credit or -- I'm sorry,
13 rephrase. It does not stand for credit, it stands
14 for a debit. 600 stands for a debit made that the
15 homeowner is liable for.

16 Then there's a key that's actually listed,
17 every one is different, every entry is listed
18 differently to identify them. The Land 10 is
19 actually where the payment went to, it went to
20 LandSafe.

21 Q And there is a number 552.50. Do you
22 know what that represents?

23 A That's dated up on the top as the
24 ending balance.

25 Q And is that an ending balance that --

1 relating to LandSafe or relating to the homeowner?

2 Or whose ending balance is that?

3 A It's an ending balance to the homeowner
4 on their fees due.

5 Q So this -- is this cost, the \$300
6 fee -- the \$300 fee included in that \$552.50?

7 A 552.50, yes.

8 Q Now, on the request -- strike that.
9 You indicated there was also payment to LandSafe, is
10 that correct?

11 A Yes.

12 Q How was LandSafe paid?

13 A Through their system.

14 Q Is it an electronic transfer?

15 A Yes, sir.

16 MR. MALONE: I'll also ask for the
17 record of that payment to LandSafe relating to the
18 title work in the Ukpe case.

19 MS. ROSE-SMITH: I think she just
20 showed you the record of the payment. It's right
21 there.

22 MR. MALONE: No, that's not money.

23 MS. ROSE-SMITH: Well, I mean, I
24 understand that it's not what you want to see, but I
25 am representing to you as the lawyer for the company

1 that that's what there is. It may not be what you'd
2 like to see; it is, nonetheless, what is.

3 MR. MALONE: I'm sorry, money -- if no
4 money changed hands, that's fine. But we're going
5 to ask for the money. If no money changed hands and
6 it's just a paper entry and there's not a real
7 economic transaction, fine. But if that's all there
8 is, you come back and tell us that's all there is.

9 MS. ROSE-SMITH: Counsel, I'm not
10 saying that no money changed hands. I'm not
11 participating in a conspiracy theory, I am saying to
12 you they have an electronic invoicing system, they
13 pay things electronically, they note when the things
14 are paid. That's the entry there.

15 If there's some specific thing that you
16 believe that you're looking for, put it in a letter.
17 Let's keep going.

18 MR. MALONE: We're looking for the
19 accounts payable entry, we're looking for the
20 payable entry, we're looking for the checking
21 account entry, any entry that reflects money
22 actually went over to LandSafe from your client.

23 MS. ROSE-SMITH: I realize that you
24 guys keep asking for account ledgers and accounts
25 payable, which is a very old finished way of looking

1 at accounting.

2 AS400 is their servicing platform, that's how
3 they pay things. I realize that it used to be back
4 in the day a bunch of books with a bunch of little
5 entries; it's not any more. I don't know what else
6 to give you.

7 But certainly if you put it in the letter we
8 can fight about it later. The judge said we can
9 talk about documents later. Please keep asking Miss
10 Alvarado questions.

11 BY MR. MALONE:

12 Q Miss Alvarado, does the AS400 system
13 tie into any kind of bank accounts of your client --
14 of your employer?

15 A I don't know about a bank account, but
16 every time a payment is processed payment is
17 reflected in fees due within 24 hours.

18 Q And does that entry go into any other
19 part of your system? Does the system have an
20 accounting function?

21 A They do have an accounting function,
22 that's New Invoice.

23 Q New Invoice? How long has New Invoice
24 been the accounting system?

25 A I do not know that.

1 Q Is New Invoice provided to you by a
2 vendor?

3 A I'm not sure.

4 Q And can you explain why the hesitation?
5 You're not sure?

6 A Because I honestly don't know. I know
7 it's not our program.

8 Q Do you know whose program it is?

9 A I do not.

10 Q In all the years you have worked there
11 have you ever heard anyone say whose program it is?

12 A I do not work for the finance group,
13 no.

14 Q Who in the finance group would know
15 whose program it is?

16 A Whoever deals with all the contracts.
17 I do not know.

18 Q Have you ever heard anyone say it's a
19 program of Fidelity National Information Systems,
20 New Invoice?

21 MS. ROSE-SMITH: Objection.

22 THE WITNESS: No, I have not heard
23 anyone say that.

24 BY MR. MALONE:

25 Q Have you ever heard anyone say it's a

1 program of Lender Processing Services, Inc.?

2 MS. ROSE-SMITH: Objection.

3 THE WITNESS: No, I've never heard
4 that.

5 BY MR. MALONE:

6 Q There's been testimony previously that
7 the Phelan, Hallinan and Schmieg firm, when they
8 upload an invoice to the New Invoice system for
9 payment that they have to pay \$5 for each invoice.

10 Are you aware of the practice of law firms
11 having to pay \$5 to upload an invoice for your
12 payment?

13 MS. ROSE-SMITH: Objection. You can
14 answer if you know. I'll also say it's beyond the
15 scope of this deposition.

16 THE WITNESS: I do not know what they
17 pay. I do know there's a nominal fee for the usage.

18 BY MR. MALONE:

19 Q What do you know about that fee?

20 A I don't know anything about the fee,
21 other than there's a nominal fee charged.

22 Q How did you learn there's a nominal fee
23 charged?

24 A I asked.

25 Q Who did you ask?

1 A Our New Invoice -- our financial group.

2 Q And who was it that you asked?

3 A I don't have that information in front
4 of me.

5 Q Do you remember the name of the person?

6 A No, I don't. I've been e-mailing lots
7 of people in preparation.

8 Q Does your employer, Countrywide Home
9 Loan Servicing, pay anything to whoever the vendor
10 is of New Invoice for use of the software program?

11 A That I'm not aware of.

12 Q In addition to this nominal fee that
13 the unidentified vendor New Invoice gets, are you
14 aware of any other fees that they get from law firms
15 to whom referrals are given?

16 A I'm not aware of that.

17 Q In addition to this nominal fee that
18 the unidentified vendor gets, are you aware of any
19 other fees that they get from your employer?

20 A Not aware of that.

21 Q In your mind the fact that on
22 March 10th, 2008 a \$300 invoice was paid to New
23 Invoice for title fees, does that indicate to you
24 that the report was complete as of that date? The
25 title report.

1 A This was not submitted through New
2 Invoice, this was submitted directly through the
3 LandSafe system. It was a payment made directly to
4 the LandSafe.

5 So, yes, making that payment to me means that
6 our -- I assume that the product that we requested
7 was completed.

8 Q What is the relationship between
9 LandSafe and your employer?

10 A At this time I do not know. I know
11 that we order titles through their company.

12 Q For how long have you been ordering
13 titles through their company?

14 A As far as I know the nine years I have
15 worked there.

16 Q And are they affiliated with the
17 Countrywide family of companies in any way? To your
18 knowledge.

19 A Countrywide companies? They were.

20 Q And are they still?

21 A The Countrywide companies are no
22 longer, it's Bank of America.

23 Q I understand.

24 A I do not know what the transitional
25 change has been.

1 Q Do you know if LandSafe is now
2 affiliated with the Bank of America family of
3 companies --

4 A At this time --

5 Q -- which used to be Countrywide?

6 A -- I don't know.

7 Q Okay. And are you, Countrywide Home
8 Loan Servicing, now BAC Home Loan Servicing, still
9 ordering your title work through LandSafe?

10 A Yes.

11 Q Now, when a request goes in to LandSafe
12 for title work, what does the request ask LandSafe
13 to do?

14 A I believe it's documented right here.
15 It asks for title search. Right back here, title
16 search, title has been ordered through LandSafe.
17 They're asking for a title search.

18 Q Okay. And in your experience, the nine
19 years you have worked there in the various
20 departments, what does a title search mean?

21 A It means it usually runs on the
22 property to see if there are any other liens and
23 showing who has any liens against the property.

24 Q And do you know how that's done?

25 A No, I do not.

1 Q Have you ever seen any LandSafe title
2 reports?

3 A I have glanced at them.

4 Q Have you had an opportunity to look at
5 the LandSafe title report in this case, the Ukpe
6 foreclosure case?

7 A In all the documents that were supplied
8 to me there was one in there. I did not go through
9 it line by line, so I briefly saw it.

10 Q Did it appear to be similar to other
11 LandSafe reports --

12 A Yes, it did.

13 Q -- you had seen? Do you know how
14 LandSafe goes about having the title work done? Do
15 they have employees who do it or do they
16 subcontract?

17 MS. ROSE-SMITH: Objection. It's
18 beyond the scope. She doesn't work for LandSafe.

19 THE WITNESS: I could not know.

20 BY MR. MALONE:

21 Q Now, in the Referral Account Detail
22 Report, Alvarado-5 and Alvarado-6, there's a
23 reference on the right -- upper right-hand side. Do
24 you see name -- quote, name of private label S-E-R,
25 close quote, and next to it there's an entry, quote,

1 Countrywide Home Loan, appears to be an S. Actually
2 Countrywide Home Loans. It's blank on mine.

3 Can you tell us what your understanding is of
4 the phrase, name of private label SER, S-E-R?

5 A I don't necessarily break them up into
6 whether it's sub servicing or private label, so I
7 can't define it for you.

8 MR. MALONE: I'm sorry, I missed part
9 of the answer. Could you read back the answer?

10 (The court reporter read back the
11 following:

12 "Answer: I don't necessarily break
13 them up into whether it's sub servicing or
14 private label, so I can't define it for
15 you.")

16 BY MR. MALONE:

17 Q Would you tell us the difference
18 between sub servicing and private label servicing to
19 your knowledge?

20 A No, I can not.

21 Q All right. You used the phrase sub
22 servicing. What did you mean by that?

23 A We're servicing on behalf of an
24 investor.

25 Q And Countrywide Home Loan Servicing,

1 L.P. is the master servicer, is that correct?

2 A Again I'm very sketchy when it comes to
3 sub servicing and master servicing. That's not my
4 field.

5 Q To your knowledge do you know which
6 role in the scheme of things in this foreclosure
7 case, the Ukpe foreclosure case, your employer has?
8 Is your employer the master servicer or the sub
9 servicer?

10 A Again it's not my role and I don't -- I
11 didn't break it up that way.

12 Q I understand you didn't break it up
13 that way, but to your knowledge who is the master
14 servicer in the Ukpe case?

15 MS. ROSE-SMITH: Objection. You tried
16 a couple of times; she doesn't know.

17 BY MR. MALONE:

18 Q Please answer the question.

19 A Again I don't break it up into master
20 servicing or sub servicing so, no, I do not know.

21 Q I didn't ask you whether you break it
22 up. To your knowledge is it broken up in the Ukpe
23 case in terms of functions of a master servicer and
24 a sub servicer?

25 MS. ROSE-SMITH: Objection.

1 THE WITNESS: Again, I don't break them
2 up that way.

3 BY MR. MALONE:

4 Q What way do you break them up?

5 A When I look at it I look and see who
6 the investor is. That's what I look at.

7 Q Who's investor in this case?

8 A Bank of New York.

9 Q And can you tell us where it indicates
10 that Bank of New York is the investor? On Alvarado
11 Exhibit 4.

12 A Foreclosure in the name of Bank of New
13 York as Trustee for Certificate Holder. That's one
14 place that I go to look to identify who the investor
15 is.

16 Q And that's section 00016 on
17 CW-Ukpe-01062.

18 A That's the only place I would look.
19 Now, information is drawn into this Excel
20 spreadsheet.

21 Q This Excel spreadsheet, talking about
22 the Alvarado-4?

23 A The AS400. So in looking in this,
24 that's where I would go to look to see who the
25 investor is.

1 Q And to your knowledge does anyone at
2 Countrywide Home Loan Servicing undertake any kind
3 of quality control check to determine whether the
4 investor is properly identified?

5 A I believe -- you know, honestly I don't
6 know what the quality control is. The information
7 is uploaded usually from the pooling and servicing
8 agreements.

9 Q And who is responsible for making that
10 link between a particular pooling and servicing
11 agreement and the AS400 system?

12 A Our investor accounting department.

13 Q Now, is there any indication here, that
14 is, on CW-Ukpe-01062, as to the particular
15 securitized trust involved?

16 A Not on that line, no.

17 Q Is it there on any other line in the
18 document?

19 A No, not that I can see.

20 Q So does someone have to go to another
21 document to get the name of the plaintiff in whose
22 name the foreclosure action should be brought?
23 Other than the Alvarado Exhibit 4.

24 MS. ROSE-SMITH: Are you asking --
25 that's sort of two separate things. Are you talking

1 about -- are you asking about that document for the
2 name of the plaintiffs or the name in who the
3 foreclosure should be brought?

4 BY MR. MALONE:

5 Q In terms of Alvarado Exhibit 4 does
6 somebody have to go to a document, other than the
7 Alvarado Exhibit 4, to determine the name of the
8 plaintiff for the foreclosure action?

9 A Again, it was started -- or foreclosed
10 in the name of New York -- Bank of New York as
11 Trustee, and it looks like it can name -- the credit
12 holder, for some reason, just ends.

13 Q Okay. It ends with for the, and it
14 looks like certificate and H-O-L run together. Is
15 that correct?

16 A Yes.

17 Q Okay. And my question is, to get the
18 name of the plaintiff then does someone have to go
19 to some other document than Alvarado-4 to determine
20 who's going to be the plaintiff in a foreclosure
21 action to take the Ukpes' home away?

22 MS. ROSE-SMITH: Objection. Miss
23 Alvarado is not a lawyer. If you're asking who the
24 mortgagor is, that's one thing. If you're asking
25 who the plaintiff is, you need to ask me. She's not

1 the lawyer.

2 MR. MALONE: Counsel, your objections
3 are inappropriate and not proper in New Jersey. I'd
4 ask you to refrain from making them.

5 If the witness understands the question, it's
6 simply; do you have to go to another document to get
7 the full name of the plaintiff?

8 MS. ROSE-SMITH: Do you know? Do you
9 understand the question?

10 THE WITNESS: No, I don't.

11 BY MR. MALONE:

12 Q Let me try it another way then. On the
13 Alvarado-3, the letter to Mr. Oetheimer, there's a
14 case caption -- or even better still let's go to
15 Alvarado-1, the Notice in Lieu of Subpoena. There's
16 a case caption.

17 Did you review the case caption before you
18 came to court today?

19 MS. ROSE-SMITH: She's not in court
20 today, she's in a deposition.

21 BY MR. MALONE:

22 Q Before you came to the deposition
23 today?

24 A Yes.

25 Q And do you recognize that the plaintiff

1 in this action is an entity called Bank of New York
2 as Trustee for the Certificate Holders CWABS, Inc.,
3 Asset-Backed Certificates, Series 2005 dash AB3?

4 A Yes.

5 Q Okay. Can you tell us where in your
6 AS400, Alvarado-4, it tells anyone the name of --
7 the full name of the plaintiff?

8 A It would be located in that section
9 right there.

10 Q Is it located there?

11 A It cuts off.

12 Q Okay. Then we're going to ask -- so we
13 have an incomplete document, --

14 MS. ROSE-SMITH: Objection.

15 BY MR. MALONE:

16 Q -- is that correct?

17 MS. ROSE-SMITH: You don't have an
18 incomplete document.

19 BY MR. MALONE:

20 Q Well, is there more information on the
21 computer system than appears on that screen or that
22 exhibit, or is this the entire contents of what's on
23 the computer system? By that I mean -- by this I
24 mean Alvarado-4.

25 A That's all the contents that we have in

1 our servicing system. I can't tell you why it cuts
2 off.

3 MS. ROSE-SMITH: Or is abbreviated.

4 BY MR. MALONE:

5 Q In your experience if you were to go
6 home today and enter the computer system for this
7 case and go into the set of data represented by
8 Alvarado-4, would there be additional information on
9 that line, quote, foreclose in the name of Bank of
10 New York as Trustee for the Certificate Hol, H-O-L,
11 on CW-Ukpe-01062?

12 A I can't speculate. I don't know. I
13 wouldn't be able to speculate if it would show me or
14 it wouldn't. I would have to go on the system to
15 view it.

16 Q All right. We're going to ask you to
17 do that and produce if there's more to this document
18 than was produced we want to -- we want the more, so
19 we have the full name of the plaintiff.

20 Alternatively, if there is nothing more we
21 want you to produce the document that someone has to
22 go to to get the full name of the plaintiff in this
23 case. Do you understand what I'm saying?

24 A Is that information not located in the
25 pooling and servicing agreement?

1 Q I ask the questions, you've got to
2 answer them.

3 MS. ROSE-SMITH: Well, actually you're
4 demanding that she produce a number of things. You
5 really should be talking to me. You can put it in a
6 letter and I'm happy to tell you -- I'm happy to see
7 if there's something else.

8 But I'll tell you that in the age of
9 electronic discovery we pull this as what she sees
10 on her screen. So she can go home and look to see
11 if it's different, but that is not the only thing
12 that says who the plaintiff should be. And, quite
13 frankly, that doesn't say anything about plaintiff.

14 MR. MALONE: Okay.

15 MS. ROSE-SMITH: That's a lawyer's job.
16 It says, foreclose in the name of. That's what the
17 words say on the paper.

18 BY MR. MALONE:

19 Q The Referral Account Detail Report,
20 going back for a moment, Alvarado-5 and 6, is this a
21 typical Referral Account Detail Report when it's
22 printed out?

23 A I wouldn't know --

24 MS. ROSE-SMITH: Objection.

25 THE WITNESS: -- because this is the

1 first time I'm looking at it. I don't work for the
2 foreclosure firm that creates this report.

3 BY MR. MALONE:

4 Q Prior to today were you aware that the
5 AS400 system prints out on the lawyer's end an entry
6 name of Private Label Ser, Countrywide Home Loans?
7 Were you aware that that entry got generated by
8 whatever information is on Alvarado-4?

9 A When I saw it for the first time last
10 week.

11 Q Can you tell us where on Alvarado-4 --
12 I'm sorry, Alvarado-5 or 6 -- strike that.

13 Alvarado-5 and 6 have the entry name Private
14 Label Ser followed by Countrywide Home Loans. Can
15 you tell us where on Alvarado-4, the AS400 system,
16 that particular information appears?

17 A I can look. I do not know where
18 exactly it pulls from, since there's a whole bunch
19 of data within our system. That information is
20 pulled from different sections so I wouldn't know
21 specifically where that section comes from.

22 Q Okay. I ask you to take a minute and
23 tell us where, or if it comes from some other
24 source.

25 A If I were looking on AS400 to know

1 whether a loan has been acquired sub service,
2 private label, whatever section that would be, I
3 would be looking right here under division.

4 Division specifies for me CFC, which is
5 another d/b/a of Countrywide, and broker stands for
6 who originated it.

7 So me personally looking at those documents,
8 that's where I would tie that information into.

9 Q Okay. And you're referring to
10 Alvarado-4, CW-Ukpe-01004, there's a heading towards
11 the top of the page Additional Information?

12 A Yes.

13 Q That contains a series of lines
14 beginning with close code and ending with mail
15 payments to plaintiff.

16 A Correct.

17 Q Okay. And can you identify for the
18 record, say out loud for the record what in those
19 entries leads you to believe that they relate to the
20 entry on Alvarado-5 and 6, quote, Name of Private
21 Label Ser, Countrywide Home Loans?

22 MS. ROSE-SMITH: Objection.

23 THE WITNESS: When looking at it this
24 simplifies a close code, meaning no mail going out.
25 Warning code means foreclosure. Lock out code,

1 again no mailing goes out. Certified funds
2 required. Appears as phase code, the nine -- I'm
3 sorry. The loan type shows the loan type being an
4 ARM loan.

5 It gives a CMT number, phase code, nine. That
6 specifies specifically what kind of property it is;
7 whether it's a rental, two floor, one floor home. A
8 date next to it.

9 Then it goes -- for investor it has investor
10 information, which would I-D it to the investor,
11 then it has division, which would have originated
12 the loan. CFC broker or would say acquisition or
13 C-O-D or would say wholesale lending.

14 Batch number gives a specific batch that would
15 tie it into the loan. Interest paid through August
16 1st, 2007. Payment date, last payment applied. I'm
17 sorry. Interest paid through August 1st, 2007,
18 payment made August 1st, 2007, A-C-H. Means
19 electronic draft. None.

20 Simple interest loan. APA FND payoff or sale
21 date, August 1st, 2005. That's when the loan was
22 received. APA means if it was applied, if it was
23 acquired at that time. The year to date taxes, the
24 amount of the taxes; 4,235.50.

25 Mail, that means the homeowner makes the

1 payments directly to the Plano facility. Year to
2 date interest, zero.

3 BY MR. MALONE:

4 Q As you've read that series of entries
5 into the record can you explain to us, based on your
6 knowledge and experience, how that information, when
7 uploaded into the AS400 system and then downloaded
8 by the law firm as a Referral Account Detail Report,
9 comes out as name of Private Label Ser Countrywide
10 Home Loans?

11 MS. ROSE-SMITH: Objection. You have
12 asked her this a million times.

13 MR. MALONE: I have not asked that
14 question before.

15 BY MR. MALONE:

16 Q Please answer the question.

17 A I do not know specifically. Me looking
18 at the loan, that's where I would tie the
19 information into, yes.

20 Q You mentioned that there was a code
21 entry there as to the investor. Could you read that
22 itself, the code for the investor?

23 A 0270081321701.

24 Q And do you know what investor that
25 relates to?

1 A No, I do not.

2 Q Is there an -- how would you find out
3 from the system who that investor is?

4 A That I don't know.

5 Q Nine years in the system wouldn't you
6 just be able to go into the AS400 system, put this
7 code in and get an answer?

8 MS. ROSE-SMITH: Objection.

9 THE WITNESS: That's not the way the
10 queries run.

11 BY MR. MALONE:

12 Q Okay.

13 A That's not the way they run.

14 Q How would one do a query to find out
15 who the investor is in the Ukpe case as reflected on
16 Alvarado-4?

17 A In AS400 you would not be able to look
18 it up by investor only.

19 Q What is the significance of the
20 investor code that you just read, if any?

21 A That I do not know. It specifically
22 ties into the investor, however the system runs or
23 however it's maintained.

24 Q Is there some information in the system
25 beyond this AS400 entry and Alvarado-4 that would

1 contain this code for the investor and also identify
2 who the investor is? To your knowledge.

3 A I honestly do not know.

4 Q Do you know who the investor is in this
5 case?

6 A Yes.

7 Q Who is the investor?

8 A Bank of New York.

9 Q And in your experience what do you
10 understand is meant by the word investor?

11 MS. ROSE-SMITH: Objection.

12 THE WITNESS: They're actually the note
13 holder.

14 MR. MALONE: Counsel, we're going to
15 ask that your client produce any information
16 associated with this investor code, 027008132171.

17

18 BY MR. MALONE:

19 Q Is it your understanding, Miss
20 Alvarado, that when the information comes back it
21 will reflect that the Bank of New York is the
22 investor in this case?

23 MS. ROSE-SMITH: Objection.

24 THE WITNESS: I could only speculate on
25 that, only because when I look at it it's investor

1 bulk loan or company. So if I was looking at it
2 that's my assumption. I do not know for sure.

3 BY MR. MALONE:

4 Q Well, when someone sends the
5 information, when someone uploads this information
6 from the AS400 contained in Alvarado-4 and sends the
7 information to the attorney such that the attorney
8 generates a Referral of Account Report, does anyone
9 in the system check to see if the attorney is being
10 properly instructed as to who the plaintiff should
11 be in the case?

12 MS. ROSE-SMITH: Objection.

13 THE WITNESS: The assumption is
14 everything is accurate in the AS400 system,
15 therefore when it's given to the foreclosure counsel
16 the assumption is all the information is accurate.

17 BY MR. MALONE:

18 Q And I understand the word assumption.
19 Do you have any knowledge of who puts the
20 information in that's reflected in the investor code
21 on Alvarado-4, CW-Ukpe-01004?

22 A Not to my knowledge, no.

23 Q Do you have any knowledge if that
24 information is, in fact, accurate, as opposed to
25 your assumption?

1 MS. ROSE-SMITH: Objection.

2 BY MR. MALONE:

3 Q Answer the question, please.

4 A Repeat it.

5 MR. MALONE: Could I have the question
6 read back, please?

7 (The court reporter read back the
8 following:

9 "Answer: Do you have any knowledge if
10 that information is, in fact, accurate, as
11 opposed to your assumption")

12 MS. ROSE-SMITH: Objection.

13 THE WITNESS: I can only assume it's
14 accurate from reading it.

15 BY MR. MALONE:

16 Q From reading what?

17 A From reading it right here.

18 Q Reading it on the face of Alvarado-4?

19 A Yes.

20 Q Now, on the bottom of Alvarado-5 and
21 the bottom of Alvarado-6 there's like a URL web
22 address. Is that correct?

23 A Yes.

24 Q And are you familiar with the web
25 address on the bottom of Alvarado-5?

1 A Yes, I am.

2 Q And can you tell us whose web address
3 that is?

4 A The Business Partners Interface.

5 Q And what Business Partners Interface is
6 it in this case?

7 A It's the Business Partner Interface
8 that our company uses and foreclosure counsel uses.

9 Q Who generates that particular entry,
10 that URL? Is that generated by your employer at
11 Countrywide or is that generated by the law firm
12 such that it gets printed out at the bottom of the
13 document Alvarado-5?

14 A I believe that gets generated with the
15 person that's actually printing it. So whoever
16 printed this for you, that's where the information
17 came from.

18 Q And within the entry that's printed at
19 the bottom of Alvarado-5 it says at H-T-T-P-S colon
20 forward slash twice, Business Countrywide dot com,
21 forward slash protected, forward slash legacy,
22 forward slash F-B-M-B-P forward slash
23 F-B-M-B-P-N-E-T forward slash forms, forward slash
24 A-T-R-F forward slash A.

25 Did I read that correctly?

1 A I hope so. I wasn't following it line
2 by line.

3 Q Okay.

4 MR. MALONE: Counsel, your snickering
5 is not appropriate.

6 MS. ROSE-SMITH: I have --

7 MR. MALONE: And I'll have you know
8 that Mr. Bernheim chided our attorneys for doing
9 that.

10 MS. ROSE-SMITH: I'm not laughing at
11 you, I'm laughing at my witness. And I don't think
12 she's offended. I just thought that that was a
13 funny statement.

14 I'm not snickering, I was just actually -- it
15 was more of a giggle, in my mind, it was more of a
16 giggle. Sorry.

17 MS. WELLINGTON: It was humorous.

18 BY MR. MALONE:

19 Q Do you know what the entry protected
20 slash legacy means?

21 A No, I do not.

22 Q Do you know what the initials F-B-M-B-P
23 mean?

24 A No, I do not.

25 Q Do you know what the initials following

1 that mean?

2 A No, I do not.

3 Q Do you know anything about the content
4 of this --

5 A I know the first --

6 Q -- footer?

7 A -- part, Business dot Countrywide dot
8 com is our Business Partner Interface. Anything
9 beyond that would be the person that's viewing it
10 and printing it.

11 Q And the date of -- there's a date at
12 the end of that whole footer of three slash ten
13 slash 2008. Do you see that?

14 A Yes, sir.

15 Q Would that date be printed out then by
16 the law firm when they printed out the document?

17 A Whoever printed this, that would be the
18 date they used. That would be the date that it was
19 printed. It automatically goes down on any line.

20 Q And now turning to Alvarado-6, the
21 stamp at the bottom beginning with H-T-T-P-S appears
22 to be similar except the date is now March 2nd,
23 2008. Is that correct?

24 A That's correct.

25 Q And again it's your understanding that

1 would be the result of a law firm printing out the
2 document on that date?

3 A That would be the person, whoever it
4 was that printed it, whoever supplied this to you.

5 Q Turning to the second page of
6 Alvarado-5 there's an entry, foreclose in the name
7 of. Do you see that?

8 A Yes, sir.

9 Q And following it says, Bank of New York
10 as Trustee for the Certificate Holder, then an S,
11 CWABS, Inc. Asset-Backed Certificates, Series
12 2005-AB3 and slash or MERS as appropriate.

13 Did I read that correctly?

14 A Yes, sir.

15 Q Can you tell us where on the AS400
16 information, Alvarado-4, that instruction appears
17 such that when it's downloaded by the attorney the
18 attorney knows to bring the name of the lawsuit --

19 A Section 16.

20 Q -- in either of two entities?

21 A I'm sorry. Section 16, foreclose in
22 the name of, and then it would list the whole
23 entire --

24 Q Section 16 ends with Certificate Hol,
25 H-O-L, all as one word run together. Is that

1 correct?

2 A Yes.

3 Q So there's no additional information
4 there on that page. Can you tell us where the rest
5 of the information is where it says Certificate
6 Holder CWABS, Inc. Asset-Backed Certificate Series
7 02005-AB3? Anywhere?

8 MS. ROSE-SMITH: Objection. Are you
9 asking her whether those words appear on the page in
10 the AS400?

11 MR. MALONE: I'm asking where it
12 says -- such that the attorney on the other end
13 downloads this thing and says, vuala, I'm bringing
14 the suit and this is my plaintiff.

15 MS. ROSE-SMITH: She's not going to be
16 able to testify what the attorney on the other side
17 knows. She can tell you what's on the page --

18 MR. MALONE: Yes.

19 MS. ROSE-SMITH: -- and she can tell
20 you what she understands.

21 BY MR. MALONE:

22 Q So this entry that the attorney pulls
23 up, is it fairy dust that creates it or your
24 computer system?

25 MS. ROSE-SMITH: Objection.

1 Argumentative. Don't go there, Mark. You're
2 beating this horse to death and I'm letting you, but
3 my God.

4 MR. MALONE: All right, I'll withdraw
5 it.

6 BY MR. MALONE:

7 Q How does it get -- do you have any
8 knowledge, how does the name, the specific name of
9 the trust, end up on the attorney's report when it's
10 not on the AS400 system, Alvarado-4 you're showing
11 us? Do you have any knowledge?

12 A As far as I know all that information
13 would be located in that section.

14 Q In that section on the computer system?

15 A Yes.

16 Q Okay. Then we're going to ask you to
17 produce the balance of that computer system entry as
18 well as the balance of any other information that
19 has been cut off and is excluded from this paper
20 document Alvarado-4.

21 MS. ROSE-SMITH: You have already asked
22 that five times because you have asked the question
23 five times. And I have said --

24 MR. MALONE: That's the first time I
25 have asked.

1 MS. ROSE-SMITH: -- to put it in a
2 letter and we're happy to do it.

3 But I will not allow the representation to
4 stand that something has been excluded. As I said,
5 it just as easily could be an abbreviation. We'll
6 go back and check.

7 MR. MALONE: As well as any information
8 that's been excluded. If none has been excluded
9 then there's none to produce.

10 BY MR. MALONE:

11 Q It also says on the bottom left of
12 Alvarado-5, in terms of foreclose in the name of,
13 after the name of that securitized trust it says
14 and/or MERS as appropriate.

15 Do you know what that entry, MERS as
16 appropriate means?

17 MS. ROSE-SMITH: Objection.

18 THE WITNESS: Yes.

19 BY MR. MALONE:

20 Q What does it mean?

21 A That if MERS was a nominee for the
22 investor they can go ahead and bring it in that
23 name.

24 Q The foreclosure action be brought in
25 the name of MERS, is that your understanding?

1 MS. ROSE-SMITH: Objection. I believe
2 that mischaracterizes what she just said.

3 MR. MALONE: All right. Let me go back
4 and reread it.

5 Could I have the witness's answer read back?

6 (The court reporter read back the
7 following:

8 "Answer: That if MERS was a nominee
9 for the investor they can go ahead and bring
10 it in that name.")

11 BY MR. MALONE:

12 Q By, bring it, did you mean the
13 foreclosure action in MERS's name?

14 A Yes, sir.

15 Q Okay. Is your employer a member of the
16 MERS system?

17 A Yes, sir.

18 Q And in your experience in the years
19 you've been employed have you had occasion to enter
20 information into the MERS system?

21 A No, sir.

22 Q There are dedicated people within your
23 operation who are responsible for entering
24 information into the MERS system on behalf of your
25 employer?

1 A Yes, sir.

2 Q And who are they? Do they have a
3 section name or title?

4 A It's an e-mail group, a MERS e-mail
5 group, M-E-R-S, within our company.

6 Q Is any effort made at the time of the
7 referral to determine whether MERS is, in fact, the
8 nominee for the investor prior to the referral being
9 sent out to the law firm?

10 A I honestly do not know.

11 Q If you wanted to find out as of the
12 date of the referral -- and, by the way, what was
13 the date of the referral as reflected on Alvarado-4?

14 A Attorney automated referral, 3-8-2008.

15 Q And that's CW-Ukpe-01062?

16 A Yes.

17 Q Section 00016, is that correct?

18 A Yes, sir.

19 Q And there's an entry, DT 03 slash 08
20 slash 2008. Correct? Is that the date?

21 A That's the date.

22 Q And there's an entry, TM 22:00 -- two
23 two colon zero zero colon 59. Is that correct?

24 A Yes.

25 Q And does that indicate that it's going

1 out at -- after 10:00 o'clock in the evening?

2 A That would indicate the time that it
3 was documented, not the time it was released, just
4 the time the information was documented.

5 Q And can you tell when it was released,
6 when the referral was actually released?

7 A My assumption is that this is all
8 electronic, so therefore it would be the same time.
9 I could be wrong. I don't know if it central,
10 pacific, eastern.

11 Q I'm not asking whether it's central,
12 I'm just asking when -- does this record reflect
13 when it's actually released to the law firm as
14 opposed to --

15 A This reflects the time that it was
16 entered onto the AS400 system.

17 Q And once it's entered is it
18 automatically sent out or does someone have to push
19 a button and say, send it to the law firm?

20 A The automated system did it. CFC
21 stands for Countrywide at Foreclosure. Therefore it
22 wasn't an individual that did it, it was an
23 automated system.

24 Q Is there any indication -- well, in
25 your experience when the automated system does it,

1 does the automatic system make the referral to the
2 law firm as soon as the information is entered into
3 the system?

4 A Yes.

5 MS. ROSE-SMITH: Objection.

6 THE WITNESS: At this time, when it's
7 dated. That's what I understand automation to be.

8 BY MR. MALONE:

9 Q So if someone were actually sitting in
10 the law firm at 11:00 p.m. on the night of
11 October 8th, 2008 they could access the referral
12 report, to your understanding?

13 MS. ROSE-SMITH: Objection. She
14 already told you she doesn't know what time zone.
15 She doesn't know if it was 11:00 p.m. eastern.

16 MR. MALONE: 11:00 p.m. the same time
17 zone as reflected on Alvarado-4.

18 MS. ROSE-SMITH: You don't know what
19 time zone the entries are for Alvarado-4.
20 Countrywide has locations all over the country.

21 MR. MALONE: Fair enough.

22 BY MR. MALONE:

23 Q Let's start with that. Do you know
24 what time zone that is?

25 MS. WELLINGTON: 22:00 is 10:00

1 o'clock.

2 MS. ROSE-SMITH: Yeah. Also 22:00 is
3 10:00 o'clock, by the way. I'm glad somebody else
4 knows military time.

5 THE WITNESS: No, I do not know what
6 time zone it's located in.

7 BY MR. MALONE:

8 Q If someone were sitting in their office
9 after it was sent out before the end of the day, at
10 some point they're sitting in their office somewhere
11 in the country and it's sent out already, would they
12 be able to access it on their computer system at the
13 law firm, to your knowledge?

14 A I don't work for the law firm, I don't
15 know what they have access to or when they have
16 access to it.

17 Q You indicated there was a Business
18 Partner Interface, correct?

19 A Yes.

20 Q The law firm in this case, Phelan,
21 Hallinan and Schmieg, are they a business partner of
22 Countrywide Home Loan Servicing?

23 MS. ROSE-SMITH: Objection. She
24 already answered that.

25 THE WITNESS: Yes.

1 BY MR. MALONE:

2 Q Okay. And as a business partner of
3 Countrywide Home Loan Servicing do they have an
4 interface to the AS400 system when something is sent
5 to them by Countrywide?

6 MS. ROSE-SMITH: Objection. That
7 mischaracterizes what's she testified, that they
8 have an interface.

9 MR. MALONE: It's a question.

10 BY MR. MALONE:

11 Q Answer the question, please.

12 A Could you say it again?

13 (The court reporter read back the
14 following:

15 "Question: And as a business partner
16 of Countrywide Home Loan Servicing do they
17 have an interface to the AS400 system when
18 something is sent to them by Countrywide?")

19 THE WITNESS: I don't know what kind of
20 access they actually have to the AS400 system as far
21 as what they can see on their end, because I have
22 never seen it from their end.

23 This was an automated referral that went to
24 their -- through the Business Partner website. So
25 it's documented in the AS400, it goes through the

1 Business Partner website. I don't know when they
2 pull that information down.

3 BY MR. MALONE:

4 Q Also on Alvarado-5 on the second page
5 there's an entry over on the right hand side, the
6 fifth entry -- fourth entry down, payoff demand
7 total. Do you see that?

8 A I do not.

9 Q I'm sorry, Alvarado-6. Fourth entry
10 down, Alvarado-6, also marked PHS 440.

11 A Payoff demand total?

12 Q Um-hmm.

13 A Yes.

14 Q What is the amount?

15 A 240,519.59.

16 Q And do you know how that total number
17 is computed?

18 A How it's computed?

19 Q How it's arrived at.

20 A They pull the information off the AS400
21 system.

22 Q Okay. And is that information that's
23 pulled off the AS400 system contained in Alvarado-4
24 or is it contained in some other document?

25 A Contained in this AS400 log sheet.

1 Q Is it broken down into separate entries
2 or is there a total number reflecting the
3 \$240,159.59 payoff amount?

4 A The information is pulled off the
5 system and here is where it's ordered.

6 Q You're referring to within Alvarado-4
7 the page marked CW-Ukpe-01077 section 0001, is that
8 correct?

9 A Yes.

10 Q And can you describe for the record
11 what the information is reflected on the record that
12 tells you it relates to the payoff demand amount?

13 A I don't know that it specifically
14 relates to this amount, but every section you'll see
15 the different dates that the payoff demands were
16 ordered and where they were sent to.

17 Q And in this case the entry on section
18 0001 it says fax payoff demand requested. Is that
19 correct?

20 A Yes.

21 Q And to whom would that fax request go?

22 A To that fax number. Doesn't state who
23 it went to. And it's an automation, so the
24 homeowner could have called and asked for the
25 payoff.

1 There are multiple payoffs on this loan, as
2 you can see from the accounting. I'd have to see
3 the payoff demand to know which one it reflects.

4 Q Okay. Am I following you correctly
5 that the payoff demand request is faxed to someone
6 who provides you the information as to the amount of
7 the payoff demand? Is that what's going on here?

8 A No.

9 MS. ROSE-SMITH: Objection.

10 THE WITNESS: Someone would ask for a
11 payoff demand and provide us with the fax number.
12 That's the fax number it went to.

13 The second one, the second entry you can see
14 is an automated payoff and it was a demand. There
15 was also a fax number. Same thing with the other
16 entries.

17 BY MR. MALONE:

18 Q Typically in your experience is it the
19 homeowner who's asking for the payoff demand?

20 A It could be the homeowner, it could be
21 a realtor, it could be a lawyer. It could be anyone
22 that asks for it and has their homeowner's
23 information, Social Security that would call the
24 automated system. They can get through all the
25 automation and provide all the requested

1 information.

2 Q Is there anything on these entries
3 you're referring to on CW-Ukpe-01077 dash 78 that
4 tells us how the number that's computed for the
5 payoff demand total of 240,519.59 gets computed?

6 A How it's computed, no.

7 Q Do you know how it's computed?

8 A You would pull all the information from
9 the AS400 system.

10 Q Okay. And would you just show us a
11 couple of pieces of the information that are pulled
12 off the AS400 system that, to your knowledge, go
13 into that total number?

14 A Ending balance on the loan, history
15 report that's on this page, which would give
16 interest amount due, which would give escrow
17 payouts.

18 Q And that page being CW-Ukpe-01008, is
19 that correct?

20 A Yes.

21 Q So is it your understanding that -- are
22 you saying that the most recent ending balance on
23 this document, Alvarado-4, will correspond with the
24 payoff total demand on the Referral Account Detail
25 Report?

1 MS. ROSE-SMITH: Objection. That's not
2 what she said and that's not what you asked her.

3 MR. MALONE: Okay.

4 THE WITNESS: What I'm stating, at the
5 time that the information was pulled, whatever that
6 balance was at that time would be reflected on the
7 payoff demand.

8 BY MR. MALONE:

9 Q Okay. And can you show us where that
10 is in -- we've shown you what the payoff demand is,
11 can you show us where in Alvarado-4 that appears?

12 A Because I'm not looking at the payoff,
13 the actual payoff demand, I'm looking at the total,
14 the assumption is that it was pulled around the time
15 the referral went, so what would be the balance as
16 of three of '08, which would fall right in between
17 here, right after the 1-23 of '08, the balance would
18 fall in there and that would be interest and that
19 would be escrow at the time. They would also pull
20 whatever fees have accumulated at that time.

21 Q Are we in agreement that the date of
22 the referral, as reflected in the AS400 information,
23 of March 8th, 2008, occurs before April 22nd, 2008?

24 A Yes.

25 MS. ROSE-SMITH: I think we're all in

1 agreement that March comes before April.

2 MR. MALONE: Counsel, are you also in
3 agreement that the number reflected, 223,516.62 on
4 April 8th is substantially below the payoff demand
5 of two hundred --

6 MS. ROSE-SMITH: 240,519.59.

7 MR. MALONE: Thank you.

8 MS. ROSE-SMITH: Objection.

9 MR. MALONE: Well, you chimed in. Do
10 you want to answer that one, too?

11 MS. ROSE-SMITH: No. The reason that
12 I'm objecting, and I don't want to answer, I just
13 want to state the basis for my objection, is that
14 she told you that what this would be was some
15 compilation of both the balance plus the escrow plus
16 the fees.

17 MR. MALONE: Okay, good.

18 BY MR. MALONE:

19 Q Show us -- could you point out for us
20 the other components from the AS400 information that
21 get us up to the number on the referral document,
22 the payoff demand total?

23 MS. ROSE-SMITH: Objection. Again
24 she's told you that that stuff's not -- that this
25 reflects current balances. This payoff demand, what

1 would be in here, would depend on what date this was
2 pulled. Do you understand what I'm saying?

3 MR. MALONE: I hear you, counsel.
4 Please stop answering for the witness. If the
5 witness can answer, the witness can answer. Stop
6 coaching the witness.

7 MS. ROSE-SMITH: I'm not coaching her,
8 I'm trying my best to coach you.

9 THE WITNESS: Can we restate the
10 question, please?

11 MR. MALONE: You are in no position to
12 coach me. And don't speak that way to me.

13 MS. ROSE-SMITH: I'm very sorry.

14 MR. MALONE: Do not coach me.

15 MS. ROSE-SMITH: Don't shout at me.

16 MR. MALONE: Stop trying to coach me.

17 MS. ROSE-SMITH: I will not be shouted
18 at and this deposition will end --

19 MR. MALONE: That is totally
20 inappropriate, you --

21 MS. ROSE-SMITH: -- if you continue to
22 shout at me.

23 MR. MALONE: -- don't have the
24 experience I have, you don't practice in New Jersey.

25 MS. ROSE-SMITH: Counsel, --

1 MR. MALONE: Do not take on to coach
2 me.

3 MS. ROSE-SMITH: -- if you continue to
4 yell this deposition will end. We do not have to
5 shout at each other, we are all adults.

6 All I'm trying to do is help you understand so
7 that you can ask questions that will get the
8 information from the witness.

9 MR. MALONE: I do not want your help.

10 MS. ROSE-SMITH: If you don't want me
11 to make my objections --

12 MR. MALONE: Stop interrupting the
13 deposition.

14 MS. ROSE-SMITH: -- I will continue to
15 just say objection. But you specifically asked me
16 about this issue and I gave you a specific answer.

17 I'm not trying to be difficult; in fact, this
18 deposition is making me ill, quite frankly.

19 So let's just move on. You can ask the
20 witness. And if you don't want my help any more,
21 stop asking for it.

22 BY MR. MALONE:

23 Q Please tell us, Miss Alvarado, where
24 else in Alvarado-4 there is financial data that
25 would get us up to the total payoff demand -- payoff

1 demand total reflected on the referral account
2 detail.

3 A Without actually looking at the demand
4 which breaks it up, it's principal and interest,
5 which I showed you is located in loan history, there
6 are additional fees and costs that are associated
7 with the loan that will also be associated and
8 listed on the fees due on the next page, and there
9 could be additional late charges that are shown.

10 Q Okay. And the additional fees and
11 costs, do they appear on CW-Ukpe-00 -- I'm sorry,
12 01009-010010?

13 A Yes sir.

14 Q Let me go through them briefly with you
15 on Alvarado-4, CW-Ukpe-01009. There are a number of
16 entries relating to inspections of some kind. The
17 word inspection dash occupied. Do you see those
18 entries?

19 A Yes, sir.

20 Q And in your experience what do those
21 entries represent? What has occurred? What is the
22 billing of that?

23 A That would be a drive-by inspection to
24 see whether or not the property has been vacated,
25 has been abandoned or is occupied.

1 Q Okay. And who performs those drive-by
2 inspections?

3 A Countrywide Field Services.

4 Q Is Countrywide Field Services a
5 division of Countrywide Home Loan Servicing, if you
6 know?

7 A At this time I do not know because of
8 all the transition and changes to BAC.

9 Q Okay. Prior to the merging or the
10 taking over of Countrywide by Bank of America, was
11 the entity that did the inspections a division of
12 Home Loan Servicing?

13 A I don't know if the servicing section,
14 but it was of Countrywide Home Loans.

15 Q And those inspection reports, are they
16 automatically ordered in the system or does someone
17 have to request an inspection report?

18 A Generally they're automated but someone
19 could, out of cycle, order an inspection.

20 Q And you say they are drive-by
21 inspections. How are they documented in your
22 system? How is it actually documented that some
23 individual got in a car and drove by the Ukpe's
24 home?

25 A What do you mean? Are you referring to

1 how the person that's committing the inspection does
2 the inspection?

3 Q How they document it. How you know
4 they did the inspection. How your employer knows
5 the inspection actually was done.

6 A It's billed. And when it's billed it's
7 documented on the AS400 system.

8 Q Other than billing, is there any
9 underlying accounting detail reflecting someone
10 actually got in a car and drove by the Ukpe's home?

11 A Not unless it's manually requested. If
12 we have some reason to think that we need to have
13 pictures we can order pictures of the drive-by.

14 Q So if no pictures were ordered in the
15 ordinary course, is the inspector required to
16 prepare a report of his or her observations?

17 A That's the information that's listed in
18 here; inspection occupied.

19 Q I see the words inspection occupied,
20 but is there any kind of requirement that the person
21 allegedly going out and doing the inspecting prepare
22 a report? If you know.

23 A There could be a report, yes.

24 Q And where are those reports maintained?

25 A I believe in our imaging system.

1 MR. MALONE: I'm going to ask that
2 those documents be produced, counsel, or those
3 images of the inspections so we can --

4 THE WITNESS: No, no, no. They're not
5 images unless they're requested images.

6 I stated that the reports would be located on
7 there. If someone out of cycle requested images
8 those also would be attached to the report.

9 BY MR. MALONE:

10 Q Okay. We want the copies of the
11 reports.

12 A Okay.

13 Q Thank you.

14 MS. ROSE-SMITH: Put it in a letter.

15 MR. MALONE: We will.

16 BY MR. MALONE:

17 Q And the copy of the report, to your
18 knowledge, will that identify the individual who
19 actually went out and drove by the Ukpe's home?

20 A Yes.

21 Q And will it identify the date when they
22 drove by?

23 A Yes.

24 Q Will it give a time when they drove by?

25 A Yes. I'm not sure on the time, I know

1 definitely the date.

2 Q There's also an entry, BPO dash CRPI.

3 Do you see that?

4 A Yes.

5 Q Can you tell us what that represents?

6 A I know what the BPO stands for,

7 broker's price opinion.

8 Q Can you tell us in your experience what
9 a broker's price opinion is?

10 A It's basically like an appraisal except
11 again it's just a compilation of all the
12 neighborhood appraised values of property and
13 providing us with a broker's price opinion.

14 Q Now, all of those inspections occupied
15 costs go up through -- I'm sorry. Withdrawn.

16 MS. ROSE-SMITH: Counsel, when you get
17 to a place where you feel like you can take a quick
18 break?

19 MR. MALONE: Let's take a break now.

20 MS. ROSE-SMITH: Thank you.

21 (Brief recess.)

22 (Alvarado-7 "Redacted" paper marked
23 for identification.)

24 BY MR. MALONE:

25 Q Miss Alvarado, you mentioned that there

1 is a business partner involved with Countrywide Home
2 Loans Processing in the transmission of data
3 uploaded onto the AS400 system. Is that correct?

4 MS. ROSE-SMITH: Objection.

5 THE WITNESS: Can you repeat it?

6 (The court reporter read back the
7 following:

8 "Question: Miss Alvarado, you
9 mentioned that there is a business partner
10 involved with Countrywide Home Loans
11 Processing in the transmission of data
12 uploaded onto the AS400 system. Is that
13 correct?")

14 THE WITNESS: There's a Business --

15 MS. ROSE-SMITH: Objection.

16 THE WITNESS: -- Partner Interface
17 which we share.

18 BY MR. MALONE:

19 Q With whom do you share that Business
20 Partner Interface?

21 A From my knowledge foreclosure and
22 bankruptcy attorneys or firms that are assigned to
23 the account.

24 Q Is that interface shared with anyone
25 else other than foreclosure and bankruptcy

1 attorneys?

2 A That I do not know. The only one that
3 would have access to it would be the foreclosure
4 counsel, the bankruptcy counsel that's assigned.

5 Q That's what? That's assigned?

6 A That's assigned.

7 Q Who provides the software for the
8 interface?

9 A I do not know.

10 Q Does it have a program? Does the
11 program have a name?

12 A Business Partner Interface. BPI.

13 Q Is that a name that Countrywide has
14 assigned to it or is that a name a vendor has
15 assigned to the program? If you know.

16 A I do not know.

17 Q When the information is uploaded onto
18 the computer system, the information we've been
19 discussing so far, and it is then transmitted from
20 Countrywide, where is the computer -- where is
21 Countrywide's computer when the information is
22 transmitted out?

23 MS. ROSE-SMITH: Objection.

24 THE WITNESS: I don't quite understand
25 what you mean by the computer. There's many

1 computers. AS400 is on any system that it's
2 downloaded to, so anyone that has access and
3 approval and authorization can view the information
4 on the AS400. Many computers have access to the
5 information.

6 BY MR. MALONE:

7 Q All right. You have indicated that
8 individuals from Countrywide input data that's
9 reflected on the AS400. You've also indicated at
10 some point the referral automatically gets sent out.
11 Is that correct?

12 A Yes.

13 Q And can you tell us what triggers that
14 point? The system knows; okay, I no longer have to
15 wait for anyone to put more information in, I, the
16 system, can send the information forward for a
17 referral.

18 A How do I refer to this page? The page
19 that we were on, the CW-Ukpe-01062 section 13.
20 Foreclosure review.

21 Q I'm sorry, what section?

22 A Section 13, date 2-22-08.

23 Q And can you explain to us what that
24 entry means and how it leads to the automatic
25 sending of information out to the law firm?

1 A The default or foreclosure has been
2 reviewed, all approvals have been met, the review
3 has been completed, therefore the system can
4 automatically issue a referral to the foreclosure
5 counsel.

6 Q And is it Lorraine Young who makes that
7 entry alerting the system that the matter can be
8 referred to counsel?

9 MS. ROSE-SMITH: L. Young.

10 MR. MALONE: The word Lorraine is
11 spelled out.

12 THE WITNESS: Counsel, here it has her
13 name and extension, yes.

14 MS. ROSE-SMITH: Okay.

15 BY MR. MALONE:

16 Q Is it Lorraine Young?

17 A As far as the documentation.

18 Q And what is the date of that entry, if
19 you can tell?

20 A 2-22-2008.

21 Q And you've indicated before that it's
22 not until around March 8th, 2008, going down to
23 section 0016 at the bottom of the page there, that
24 it's referred to the law firm.

25 Can you tell us what takes place from the time

1 Lorraine Young said on February 22nd, 2008; it's
2 okay for the system to automatically send it out,
3 why it takes until March 8th, 2008 for the system to
4 actually send it out? If you know.

5 MS. ROSE-SMITH: Objection.

6 THE WITNESS: No, I do not know.

7 BY MR. MALONE:

8 Q Do you know, can you tell from this
9 information on this sheet whether something else was
10 happening with regard to the foreclosure that
11 resulted in the delay of the -- between the command
12 to automatically send the information out to the
13 attorney and the date the attorney actually -- it
14 was actually sent to the attorney?

15 MS. ROSE-SMITH: Objection.

16 THE WITNESS: No, I can not tell from
17 this documentation.

18 BY MR. MALONE:

19 Q When the information is entered by Miss
20 Young, as reflected in section 13, do any -- where
21 was Miss Young residing? Physically.

22 A Physically I do not know. But from my
23 knowledge next to her they extension 596, which
24 indicates a California extension.

25 Q So if Miss Young is in California and

1 entering this information onto the system, if I
2 understand you, there are a number of computers on
3 which the information will reside around the
4 country?

5 A Correct.

6 Q Okay. Is there a -- when the actual
7 forwarding to the law firm takes place is there one
8 computer that makes the referral or do all the
9 computers automatically at the same time send the
10 information out?

11 MS. ROSE-SMITH: Objection.

12 THE WITNESS: The information can be
13 located on any one of the computers if you have
14 access.

15 BY MR. MALONE:

16 Q Is there any way you can tell from this
17 entry which particular computer the information was
18 located on that forwarded the information to the law
19 firm?

20 A No, I can not.

21 MS. ROSE-SMITH: Objection.

22 BY MR. MALONE:

23 Q Do you know if the computer information
24 traveled through the interstate wires or was the
25 computer located in New Jersey that sent the

1 information to the law firm?

2 A No, I do not.

3 Q Do you know if any of the computers
4 we're talking about are located in New Jersey, the
5 Countrywide Home Loan computers?

6 A Not that I'm aware from the
7 documentation.

8 Q Can you tell us to your knowledge in
9 what states the computers are located, the
10 Countrywide computers?

11 A Countrywide computers are located in
12 any of the states that we have a site or a
13 representative is at.

14 Q Okay. Can you tell us in what states
15 Countrywide Home Loan Servicing has sites?

16 A The major sites I can let you know. It
17 was Plano, California -- Plano, Texas and different
18 sites in California.

19 Q Any other locations?

20 A It would depend on people's access.

21 Q Okay. Is the computer information also
22 resident -- the AS400 information, resident on any
23 computers located in the state of Florida? To your
24 knowledge.

25 A If there was an employee that had

1 access to AS400 then they would be able to locate
2 the information.

3 Q How about the case of a -- you
4 mentioned the term earlier sub servicer. How about
5 in the case of the sub servicer, would it be on the
6 sub servicer's computers?

7 MS. ROSE-SMITH: Objection.

8 BY MR. MALONE:

9 Q If you know.

10 A I do not know.

11 Q How about in the case of a private
12 label servicer, to your knowledge would the
13 information also reside on the computers of the
14 private label servicer?

15 MS. ROSE-SMITH: Objection. Counsel,
16 you keep saying reside on the computer. I'm going
17 to let you ask your question, but I don't think that
18 that's what she's saying the AS400 does.

19 MR. MALONE: I'm asking the question.

20 THE WITNESS: Could you repeat the
21 question?

22 (The court reporter read back the
23 following:

24 "Question: How about in the case of a
25 private label servicer, to your knowledge

1 would the information also reside on the
2 computers of the private label servicer?")

3 THE WITNESS: I would not know.

4 BY MR. MALONE:

5 Q To your knowledge and in your
6 experience after an entry is made, such as the entry
7 made by Lorraine Young in section 13, does anyone
8 outside of Countrywide Home Loan Servicing have
9 access to the computer where they can add
10 information to the system before the actual referral
11 to the attorney?

12 A No.

13 Q Turning to CW-Ukpe-01064 in Alvarado-4,
14 there is an entry under section 30. Do you see
15 that?

16 A Yes, sir.

17 Q And it reflects, quote, investor name,
18 colon, B-O-N-Y, close quote. Do you see that?

19 A Yes.

20 Q Can you tell from that entry how
21 someone determined the investor was B-O-N-Y, Bony?

22 A No, I can't, not from that entry.

23 Q Is it your understanding in your nine
24 years of experience that B-O-N-Y owned the Ukpes'
25 foreclosure note in this case? I'm sorry. Strike

1 that. Owned the Ukpe's promissory note in this
2 case?

3 A From my experience, yes.

4 Q And in your experience is Bony --
5 withdrawn. And in that same entry, section 30,
6 there's an order date of April 12th, 2008. Is that
7 correct?

8 A Yes, sir.

9 Q Can you tell us what is being ordered
10 on April 12, 2008?

11 A If you look at the line two lines up it
12 starts R-E-I-N and it continues to that second line,
13 reinstatement figures, correct? It's yes. Ordered
14 date, 4-12-2008. That's when that reinstatement
15 figure was ordered.

16 Q Now, before the break we were
17 discussing some of the cost items, including
18 inspection occupied items. Could you direct my
19 attention to that page again?

20 A CW-Ukpe-01009, and then it also
21 continues to CW-Ukpe-01010.

22 Q Now, inviting your attention to code
23 entry 10502 on CW-Ukpe-01009, there's an entry for
24 process server. Correct?

25 A Can you give me the date?

1 Q April 15th, 2008.

2 A Yes, I see that.

3 Q Do you see that \$400 charge?

4 A Yes, sir.

5 Q And do you see any process server
6 charges above that entry?

7 A No, I do not.

8 Q Do you see any process server charges
9 below that entry on the same page?

10 A No, I do not.

11 Q Okay. So up to this point there's a
12 \$400 process server charge on April 15th, 2008,
13 correct?

14 A That's correct.

15 Q And is that a charge that comes up from
16 the law firm? If you know.

17 A Yes, I do. Yes, it is.

18 Q How do you know that?

19 A Right next to it, FBRM. That signifies
20 that it was a payment that was made through the
21 foreclosure and signifies to me that was a
22 process -- an invoice that was received and paid.

23 Q The initials FBRM, what do they stand
24 for?

25 A For bankruptcy risk management.

1 Q Okay. And the number 15 following,
2 does it mean anything?

3 A That indicates the sections. You see,
4 if you notice there's one, two, three, four, five,
5 six, seven, eight entries. That means it was one
6 invoice that was received.

7 Q Okay. All of them the number FBRM 15?

8 A Correct.

9 Q Okay. Turning to the next page,
10 CW-Ukpe-01010, the second line down, there is
11 another process server entry. Is that correct?

12 A Yes, sir.

13 Q And that's now the second process
14 server entry in the AS400 system?

15 A From the listing, yes, sir.

16 Q And in the amount of \$60. Is that
17 correct?

18 A Yes, sir.

19 Q And that is also from the law firm, to
20 your knowledge?

21 A Yes, sir.

22 Q That's reflected by the letters and
23 numbers FBRM 13?

24 A Yes, sir.

25 Q Just above that there's a \$1,200 charge

1 that ends with the same FBRM 13. Do you see that?

2 A Yes, sir.

3 Q And can you tell us what the entry on
4 that same line, legal non C-O-L-L slash C-L-M-B-L
5 600 stands for?

6 A Legal non collectible, claimable.

7 Q I'm sorry, what was the last word?

8 A Claimable.

9 Q Claimable.

10 A Those are abbreviations.

11 Q Okay. And legal non collectible -- to
12 your understanding what does non collectible mean?

13 A Not charged to the borrower.

14 Q And following the slash, the claimable,
15 what does that mean?

16 A Same thing as non collectible.

17 Q Claimable means it's not collectible?

18 A The non stands for non claimable, non
19 collectible.

20 Q Oh. The non modifies both collectible
21 and claimable?

22 A That's the slash.

23 Q Okay. And the entry 600, what does
24 that mean?

25 A That means that it was a debit.

1 Q And, if you know, this particular
2 charge and other charges that have an entry
3 beginning with non C-L-M, do you know why they're
4 categorized as non collectible or non claimable?

5 A Not specifically. But it's usually
6 district or it has to do with what can be charged to
7 the borrower and what can not be charged to the
8 borrower.

9 Therefore we actually, as a company and a
10 servicer, have to pay it out to the foreclosure firm
11 but we can not pass that charge through to the
12 homeowner.

13 Q Okay. So is it your understanding --
14 strike that.

15 Can you tell us the basis of your
16 understanding that you can't collect legal fees from
17 the borrower?

18 A Depending on what the legal fees
19 represent, is my understanding.

20 Q Have you ever read the mortgage
21 document in this case?

22 A No. What do you mean by the mortgage
23 document?

24 Q The mortgage, the mortgage the Ukpes
25 signed.

1 A Line by line, no, I did not.

2 Q Do you know if it has any -- just yes
3 or no, do you know if it has any information in
4 there about the Ukpe's obligation to pay attorneys'
5 fees?

6 A No, I do not.

7 Q Generally do you know if mortgage
8 documents that are securitized as part of the trust
9 that your employer services, if those mortgage
10 documents have any information about attorneys' fees
11 in it?

12 MS. ROSE-SMITH: Objection.

13 THE WITNESS: Not that I'm aware.
14 Again, I didn't go through the mortgage line by
15 line.

16 BY MR. MALONE:

17 Q Okay. Now, going on down a little bit,
18 there are some entries, stand alone entries that
19 just say N-O-L -- I'm sorry, N-O-N space C-L-M.

20 A Wait, wait. Where is that?

21 Q About six lines down.

22 A It starts with F-C?

23 Q It starts -- well, the entry is 10289.

24 A Dated 3-6-09?

25 Q Yes.

1 A The description starts with
2 F-C-C-H-R-C, those are abbreviations, foreclosure
3 charge, non claimable, borrower.

4 Q Okay. And here it's non C-L-M as
5 opposed to the above where it was non C-O-L slash
6 C-L-M-B. What does -- what does non C-L-M stand
7 for?

8 A Non claimable.

9 Q And to your knowledge is there some
10 difference between why non C-L-M is used on this
11 entry where as previous entries use the entry non
12 C-O-L slash C-L-M-B? Does it make any difference in
13 the accounting system?

14 A The transaction codes make the
15 difference.

16 Q And could you explain that a little bit
17 more?

18 A The transaction code 14003 indicates
19 legal non claimable, non collectible. The code
20 you're referring to, the 10289, that descriptive is
21 foreclosure chargeable, non claimable to borrower.

22 Q I'm sorry, I didn't understand the
23 answer. Could you try it one more time?

24 A The 14003 is a transaction code which
25 represents legal non collectible claimable. 10289

1 represents the transaction F-C charge, non
2 claimable. That could stand for foreclosure costs,
3 that could be something to do with the foreclosure
4 costs, fees that are non claimable and we can not
5 pass through to the borrower.

6 Q And when these fees are not passed on
7 to the borrower, does -- who's laying out the money?
8 In this case who's paying the invoice?

9 A We are, Countrywide/Bank of America.

10 Q And so if I understand you, the top
11 entry, the \$1,200 legal non collectible, \$1,200 was
12 paid out to the law firm by --

13 A That's correct.

14 Q -- your employer?

15 A Yes.

16 Q And that money can not be -- your
17 understanding is that money can not be collected
18 from the homeowner?

19 A That's correct.

20 Q Is it charged to someone else?

21 A Not that I'm aware. Not that I know
22 of.

23 Q When and if a property is sold are
24 those costs recouped from the sale proceeds, if you
25 know?

1 MS. ROSE-SMITH: Objection.

2 THE WITNESS: What do you mean by
3 recouped from the sale proceeds?

4 BY MR. MALONE:

5 Q Well, let's say hypothetically there's
6 a house that sells for a hundred thousand dollars
7 and the attorneys' fees are taken off whatever's
8 left over of the hundred thousand, let's say
9 90,000 -- just a hypothetical -- is forwarded to
10 Countrywide Home Loan Servicing, which is the
11 representative of the trust.

12 Does Countrywide Home Loan Servicing just pass
13 the entire \$90,000 onto the trust or does
14 Countrywide Home Loan Servicing deduct this legal
15 fee?

16 MS. ROSE-SMITH: Objection.

17 BY MR. MALONE:

18 Q If you know.

19 A Are you talking about -- I'm a little
20 confused. Are you asking if these fees are added
21 into our bid at a foreclosure sale or are these
22 chargeable after the foreclosure sale?

23 Q I think the latter, but let me try and
24 pinpoint the question a little bit more. After the
25 sale occurs, --

1 A Yes.

2 Q -- okay? And whatever the net proceeds
3 are of the sale after the sheriff takes out the
4 sheriff's cut, after the law firm takes out whatever
5 the court says the law firm can take out, the net
6 goes to your employer, correct?

7 MS. ROSE-SMITH: Objection.

8 THE WITNESS: It's noted on our system,
9 I would -- I don't know honestly for sure where the
10 proceeds go to.

11 BY MR. MALONE:

12 Q Okay. Wherever the proceeds go, are
13 expenses such as legal, non collectible deducted
14 from the amount before the amount is transferred
15 onto the trust?

16 MS. ROSE-SMITH: Objection.

17 BY MR. MALONE:

18 Q If you know.

19 A I don't know.

20 Q Do you have any understanding based on
21 your knowledge and experience as to whether or not
22 charges such as the \$1,200 legal non collectible
23 amount we have been discussing, are eaten by your
24 employer? That is, your employer pays it out and
25 doesn't get it back, or if your employer gets

1 reimbursement somehow?

2 MS. ROSE-SMITH: Objection.

3 THE WITNESS: That I do not know.

4 BY MR. MALONE:

5 Q Do you know who in the system -- who in
6 your organization would know?

7 A No, I don't. Excuse me. Again are you
8 referring to post sale or pre sale?

9 Q My questions were about -- it's been
10 sold, there's a sheriff sale.

11 A Okay.

12 Q It's a hypothetical.

13 A Okay.

14 Q Does that change --

15 A My answer stands.

16 Q Okay. Following on down with the
17 questions about process server on CW-Ukpe-01010, is
18 the next entry regarding process server, as far as
19 you can tell, the last entry in that section
20 beginning with the code 10502?

21 A Yes, I see that entry.

22 Q And that's on March 19th, 2009?

23 A Correct.

24 Q And it's a \$500 process server fee, is
25 that correct?

1 A From the documentation, yes.

2 Q Is that from the law firm?

3 A As far as I can tell, yes.

4 Q And that's based on the initials FBRM
5 19?

6 A Yes.

7 Q And as a manager from Countrywide are
8 you confident about the integrity of these entries,
9 of this entry, this \$500 process server fee entry,
10 is an actual entry based on information inputted
11 into the system by the law firm?

12 MS. ROSE-SMITH: Objection.

13 THE WITNESS: It's not inputted.

14 There's an invoice that comes into New Invoice and
15 if it's within the allowable amounts and that's the
16 fee of a process server, then it's automatically
17 paid within 24 hours and it's paid as an invoice.
18 That's what the FBRN 19.

19 Am I confident? I am going according to the
20 invoice that we received; we paid for it.

21 BY MR. MALONE:

22 Q When the law firm sends the invoice up
23 to New Invoice where does it go? Where is New
24 Invoice located, their system?

25 MS. ROSE-SMITH: Objection.

1 THE WITNESS: It's a computer system.

2 I guess an internet system. New Invoice is a

3 system.

4 BY MR. MALONE:

5 Q Do you know where -- the invoice goes

6 to someone's computer. Do you know where that

7 computer resides?

8 MS. ROSE-SMITH: Objection.

9 THE WITNESS: It's on a software system

10 that anyone could be able -- that has access to New

11 Invoice, can go ahead and locate the information on.

12 BY MR. MALONE:

13 Q Well, let's start again. Once the

14 invoice is uploaded by the law firm and before it

15 gets to Countrywide does anyone have the ability to

16 enter the computer system and change the information

17 on the invoice?

18 A Anyone that has access to New Invoice

19 would have to change that specific invoice and then

20 it would not reflect that, it would reflect

21 something different.

22 Q And now my question is who within the

23 many people who have access to New Invoice for this

24 entry could change that information?

25 First, would it involve -- would someone from

1 the law firm be able to access the system and change
2 the information after they had uploaded their
3 invoice to New Invoice? If you know.

4 MS. ROSE-SMITH: Objection.

5 THE WITNESS: I don't know.

6 BY MR. MALONE:

7 Q Okay. Would someone from your
8 employer, after the invoice information is received,
9 be able to access the computer and change the
10 information?

11 A Would someone from my company be able
12 to look at the invoice and change that invoice that
13 was submitted?

14 Q Yes.

15 A No, they can not.

16 Q Okay. Would somebody from New Invoice
17 itself be able to access the computer system and
18 change the invoice?

19 A I do not know.

20 MS. ROSE-SMITH: Objection.

21 BY MR. MALONE:

22 Q If you wanted to find out, Miss
23 Alvarado, what process server event actually
24 occurred on March 19th, 2009, what would you do?

25 A I would look at the actual invoice that

1 was submitted from the foreclosure counsel's office.

2 Q Okay.

3 MS. ROSE-SMITH: We produced those to
4 you guys last week.

5 MR. MALONE: Yes, we do have them.

6 This would probably be a good time to take a
7 break for lunch and get these marked.

8 (Luncheon recess.)

9 (Alvarado-8 Invoices pages 1/14 to
10 14/14 marked for identification.)

11 BY MR. MALONE:

12 Q Miss Alvarado, picking up from the
13 lunch break, I just want to go back to the AS400
14 information on Alvarado-4.

15 The request in the March 4th letter to Mr.
16 Oetheimer marked Exhibit A-3 asked for the entire
17 Referral Account Detail Report. And that detail
18 report, as reflected on Alvarado A-5, apparently
19 consists of 29 pages.

20 Do you see it says page nine of 29 and the
21 second page of the exhibit says page ten of 29?

22 A Yes. You are talking about the
23 Alvarado, right? Because there's no E there.
24 Alvarado. You keep saying Alvaredo.

25 Q Sorry. Alvarado.

1 A Yes, I do see that page nine of 29,
2 upper right-hand corner.

3 Q So there would be a 29 page report of
4 which we have two pages marked as an exhibit,
5 Alvarado-5?

6 A Alvarado.

7 Q Alvarado-5.

8 A Alvarado-5.

9 Q Do you know where the other 27 pages
10 are?

11 A No.

12 Q Okay. Is the information that would be
13 contained on those other 27 pages included in
14 Alvarado-4?

15 A I wouldn't know that. This report was
16 pulled from the foreclosure counsel side, so that 29
17 page report consists of many different loans, not
18 just this loan in particular.

19 Q And when we were seeking the entire
20 report we were seeking the entire 29 page report,
21 although that might not have been clear.

22 When the exhibit -- I don't want to stand up,
23 but Exhibit 5, A-5, Alvarado-5 and Alvarado-6, are
24 captured Referral Account Detail Report, 111615840.

25 Do you know if that's just one loan within a

1 number of loans that would be included in the 29
2 page document?

3 A I do not know that.

4 Q And on Alvarado-4 is there other loan
5 information other than -- is there information
6 relating to other loans other than the Ukpes' loan?

7 A No.

8 Q And to determine the other loans that
9 were included in the 29 page Referral Account Detail
10 Report, how would you go about ascertaining what
11 other loans were included?

12 A This is not our report, we do not
13 provide this report. You'd have to speak to
14 foreclosure counsel.

15 Q Okay. But I understand the report is
16 sent out by the system, so when foreclosure counsel
17 downloads it they have a 29 page document.

18 A That's not what I said. The
19 information is uploaded into BPI; how counsel
20 downloads it would be on their end. Particularly
21 this is the way they downloaded it, this is what
22 they see when they download it.

23 Q So is there something to your knowledge
24 in counsel's computer system that enables them to
25 say pull a whole bunch of loans together and

1 generate a 29 page report or pull one loan and
2 generate a two page report?

3 MS. ROSE-SMITH: Objection. She's not
4 here to talk about foreclosure counsel's system.

5 THE WITNESS: I don't work for
6 foreclosure counsel, I can't tell you what the
7 reporting mechanisms and queries are.

8 BY MR. MALONE:

9 Q And on the second page of Alvarado-5 in
10 the bottom right-hand corner, seems to be about the
11 middle of the page, there's an entry; servicing and
12 P-V-T label C-O-D. Do you see that?

13 A No. Servicing -- yes.

14 Q Okay. And following that there's an
15 entry number three. Do you see that?

16 A Yes.

17 Q And do you know what the three
18 represents?

19 A No, I do not.

20 Q Who would know? If you know.

21 A That I do not know. You'd have to ask
22 the person that pulled the report. I don't know
23 what that is.

24 Q The person who pulled the report puts
25 that entry in, three? Code three?

1 A I don't know what queries they have to
2 input to pull the report.

3 Q But the code, is that input on
4 Countrywide's end or is it input on the law firm's
5 end? If you know.

6 A I do not know.

7 Q Or is it input by some third party
8 vendor?

9 MS. ROSE-SMITH: Objection.

10 BY MR. MALONE:

11 Q If you know.

12 A I do not know.

13 Q And the phrase, quote, servicing and
14 P-V-T label C-O-D, close quote, does that mean
15 anything to you?

16 A No.

17 Q All right. We were discussing before
18 the break certain charges contained in Alvarado
19 Exhibit 4, particularly a charge on CW-Ukpe-01010.

20 A Yes.

21 Q The charge about in the middle of the
22 page for \$500, process server. Do you remember the
23 discussion?

24 A The last entry in fees due, 105 --

25 Q Yes.

1 A -- 3-19-09?

2 Q Yes.

3 A Yes, I do see that.

4 Q And you indicated that that tied into a
5 law firm invoice, is that correct?

6 A Yes, sir.

7 Q And certain invoices have been
8 submitted today and marked, I marked them as
9 Alvarado 8, Exhibit 8. They have a law firm caption
10 on the first page of the exhibit of Phelan, Hallinan
11 and Schmieg, P.C., parenthesis, N-J, close
12 parenthesis.

13 And the exhibit consists of 14 pages numbered
14 in the lower right-hand corner starting with pages
15 one slash 14 and ending with pages 14 slash 14.

16 I'll ask you to take a look at those, please.

17 A Yes, I have looked at them.

18 Q Are these invoices that have been
19 produced by your employer today?

20 A Yes.

21 Q Okay. And for the record they have
22 been produced previously and marked CW-Ukpe-03059
23 through 03072.

24 MS. ROSE-SMITH: We put Bate stamps on
25 them, that's what he's saying.

1 THE WITNESS: Okay. I didn't see that
2 on this one.

3 BY MR. MALONE:

4 Q All right. Can you tell us how exhibit
5 A-8, this group of invoices, was produced for
6 production today? How did someone go about
7 gathering the invoices from Countrywide?

8 A I asked someone in our finance group
9 that had access to New Invoice to pull all the
10 invoices that were paid out to that firm on this
11 file.

12 Q And to your knowledge are all -- are
13 these all of the invoices from the New Invoice
14 system used by Countrywide, Exhibit A-8?

15 A To my knowledge, yes.

16 Q Now, just inviting your attention to
17 the first page of the exhibit, Exhibit A-8, there's
18 an entry towards the top, BAC Home Loan Servicing,
19 L.P. and -- do you see that?

20 A Yes, sir.

21 Q And this is an invoice submitted back
22 on April 15th, 2008. Is that correct?

23 A Yes, sir.

24 Q And what was the name of your business
25 back on April 15th, 2008?

1 MS. ROSE-SMITH: Objection.

2 THE WITNESS: That was the start of the
3 transition change.

4 BY MR. MALONE:

5 Q What was the start of the transition
6 change?

7 A When Bank of America acquired us. They
8 acquired us previously and through -- I don't know
9 how the system works, how long it takes for them to
10 fully acquire us, but the name changed around early
11 April from Countrywide Home Loans, formerly known,
12 to Bank of America Home Loan Servicing, L.P.

13 Q So is it your testimony that on or
14 before April 15, 2008 your employer started using
15 the name BAC Home Loan Servicing, L.P --

16 MS. ROSE-SMITH: Objection.

17 BY MR. MALONE:

18 Q -- on its invoices?

19 A I don't know when we started using it,
20 but considering that I asked for this to be
21 generated at that time, it's going to give the
22 current name.

23 So if I would have asked for the invoices at
24 another time before the name changed it would have
25 come out Countrywide. It's the time that I asked

1 for the invoices to be changed. I don't necessarily
2 know when the time that's -- I don't know that, when
3 the time changed.

4 BY MR. MALONE:

5 Q Let's clarify that. When approximately
6 did you ask for the invoices?

7 A I'd have to say around the 9th or 10th
8 or -- I couldn't give it to you. I'd have to look
9 in my e-mail system to see the exact date I asked
10 for invoices.

11 Q Around -- approximately in March 2010
12 you asked for the invoices?

13 A Yes.

14 Q So if the name change took place six
15 months earlier, that is, in late 2009, is it your
16 understanding that the invoices that were produced
17 would have the BAC Home Loan Servicing, L.P. name as
18 opposed to Countrywide Home Loan Servicing?

19 MS. ROSE-SMITH: Objection.

20 THE WITNESS: That was never a question
21 that I asked the finance group.

22 BY MR. MALONE:

23 Q What I'm trying to get, is do you know
24 if when this invoice was submitted to your employer
25 back in April of 2008 did the invoice bear the name

1 Countrywide Home Loan Servicing back in April 2008
2 or did it bear the name BAC Home Loan Servicing?

3 A In the year 2008?

4 Q Yes.

5 A We had Countrywide Home Loans.

6 Q So if on April 20th, 2008 I had asked
7 you to produce the invoice would you have expected
8 the name to be Countrywide Home Loan Servicing,
9 L.P.?

10 A That would be my assumption, that's
11 what it would print out.

12 Q Okay. And do you know how -- how it
13 came about that invoices relating to April of 2008
14 bear a different name than they would have if you
15 pulled them back then?

16 A I don't know specifically. But I do
17 know in the past once the transition occurred and
18 Bank of America took over, all of our information
19 now stated Bank of America, no longer stated
20 Countrywide.

21 Q So if I understand you, someone has
22 gone into the computer system and erased the name
23 that would have been on the invoice back in April of
24 2008 and substituted the new name, is that correct?

25 MS. ROSE-SMITH: Objection. Either you

1 misunderstood her or are intentionally
2 mischaracterizing.

3 THE WITNESS: I don't believe it would
4 have been erased, I believe the system automatically
5 updates the current time that you go and print the
6 information.

7 BY MR. MALONE:

8 Q So the invoice reflects events that
9 happen -- the invoice that gets turned out,
10 produced, that you have turned over, reflects events
11 that happened after the invoice was submitted, is
12 that --

13 MS. ROSE-SMITH: Objection.

14 BY MR. MALONE:

15 Q -- correct?

16 MS. ROSE-SMITH: Same objection as
17 before, mischaracterization.

18 THE WITNESS: I don't know how to put
19 it in words that you would understand.

20 Once the transition occurred Countrywide
21 information went away, Bank of America information
22 was placed on the system, updated the system
23 automatically.

24 So anything going forward from the transition
25 name change would say Bank of America, it would no

1 longer say Countrywide.

2 MR. MALONE: Okay. Counsel, may we
3 have a representation when that transition took
4 place?

5 MS. ROSE-SMITH: You can have one, just
6 not at this particular moment. But what I'll
7 represent to you is that what she testified earlier
8 was that this was a record of the invoice. I don't
9 know where the actual ones are. I can check and see
10 what they say, if I can find them. I don't know.

11 MR. MALONE: We'd like the invoices
12 that were submitted by the law firm.

13 MS. ROSE-SMITH: But there's -- the
14 invoices submitted by the law firm are in a software
15 system called New Invoice, which when you print the
16 records back down it's going to reflect this is --
17 this is what she's telling you; when you pull the
18 thing down it's going to reflect the client name
19 that New Invoice has. That would be Bank of
20 America.

21 I think that Phelan actually has produced to
22 you copies of the invoices. I don't remember what
23 they say, but I actually have them in that stack, if
24 you want to look.

25 MR. MALONE: Okay, good. We'll get to

1 that.

2 BY MR. MALONE:

3 Q Just for purposes of our discussion, if
4 the transition occurred in mid 2009, the transition
5 you're discussing, if I understand you any invoices
6 pulled -- any of these -- if we pulled any of these
7 invoices prior to that transition in mid 2009 they
8 would bear the name Countrywide Home Loan Servicing,
9 L.P. Is that correct?

10 A It would be the current entity that
11 owned it. So if I was pulling it and it was
12 Countrywide it would be Countrywide --

13 Q Well, --

14 A -- at the time. If there was no Bank
15 of America it would state -- I would assume that it
16 would state Countrywide.

17 Q And if -- again I'm just picking a time
18 hypothetically -- the transition occurred in mid
19 2009, any invoices that were pulled after that
20 transition would bear the name BAC Home Loan
21 Servicing, L.P.?

22 A That's correct.

23 Q Were any other changes made to the
24 invoices, to your knowledge, other than the name of
25 the recipient of the invoice?

1 A Not that I'm aware of.

2 Q Now inviting your attention to page 11
3 of 14 on the exhibit Alvarado-8, there's a reference
4 there to transcripts. Do you see that?

5 A Yes, sir.

6 Q Is there any information on this
7 invoice, by code or otherwise, that would tie it to
8 Alvarado-4?

9 A If you look at the bottom or the mid
10 section where it says payment information.

11 Q Um-hmm?

12 A 3-19-2009, 500.

13 Q Um-hmm.

14 A And then you look at the fees due,
15 trans code 10502, 3-19-09, 500 processing server,
16 that would indicate that's the same invoice.

17 Q Okay. And what is the same information
18 that's entered on both of them that tells you that?

19 A The request date for payment,
20 3-19-2009.

21 Q Okay. So it's the request date that
22 tells you that this \$500 invoice from Phelan,
23 Hallinan and Schmieg, page 11 of 14 of Alvarado-8,
24 ties into Alvarado-4 page CW-Ukpe-01010, the entry
25 for March 19, 2009, \$500, process server?

1 A That and also the date submitted up on
2 the upper left-hand corner of the invoice says date
3 submitted, 3-19-2009. Those two dates, yes.

4 Q I see an entry submitted date.

5 A Yes.

6 Q Okay. And the Phelan, Hallinan and
7 Schmieg invoice says transcripts. Is that correct?

8 A That's what it -- it says, note,
9 transcripts.

10 Q And the AS400 system says process
11 server, correct?

12 A Yes, sir.

13 Q And can you explain to us how a \$500
14 charge for transcripts submitted on March 19th, 2009
15 by the law firm comes out on the Countrywide end as
16 a \$500 process server charge?

17 A I don't know how Phelan does their
18 invoicing, I don't know what the note refers to.
19 What I would be looking at is service costs special
20 process, which to me would indicate process server.
21 Same thing.

22 Q Okay. Just -- I think I see what
23 you're saying. You're referring to page 11 of 14 in
24 bold about the middle of the page there's the words
25 note, colon, transcripts. And just above that

1 there's an entry, service costs special process.

2 A Yes, sir.

3 Q Is that what you're referring to?

4 A Yes.

5 Q On page 11 of 14 there's information
6 towards the bottom that says invoice chronology. Do
7 you see that?

8 A Yes.

9 Q And the first entry under the column
10 created has the date of March 19th, 2009. Do you
11 see that?

12 A Yes, sir.

13 Q And then there's a column, servicer
14 user. To whom does the servicer user column relate?

15 A As me interpreting it, --

16 Q Um-hmm.

17 A -- servicer user would be Countrywide
18 Home Loans, Bank of America. As I interpret it.

19 Q Okay. And the next column is vendor
20 user. And what does that column mean, if anything?

21 A As I interpret it that would be
22 foreclosure counsel, whoever submitted the invoice,
23 the user.

24 Q Okay. And below that it has M. Cruz.
25 Is it your understanding that's the first initial of

1 someone whose last name is Cruz or do you have an
2 understanding one way or the other?

3 A I don't have an understanding. I don't
4 know who the person is or what that would refer to.

5 Q Is it your understanding M. Cruz is an
6 employee of the law firm?

7 MS. ROSE-SMITH: Objection.

8 THE WITNESS: I don't know who that
9 would be.

10 BY MR. MALONE:

11 Q If they're not an employee of the law
12 firm do you know of any other vendor that M. Cruz
13 might be employed by?

14 MS. ROSE-SMITH: Objection.

15 THE WITNESS: Not that I'm aware of.

16 BY MR. MALONE:

17 Q Going up towards the top, the
18 right-hand side there's an entry, input by. Do you
19 see that, Mariel Cruz?

20 A Yes, sir.

21 Q Do you know a Mariel Cruz?

22 A No, I do not.

23 Q Do you know if she's employed by
24 Phelan, Hallinan and Schmieg?

25 A No, I do not.

1 Q Do you know if there's a connection,
2 based on your knowledge and experience, by the entry
3 input by Mariel Cruz and the initials M. Cruz under
4 vendor user?

5 MS. ROSE-SMITH: Objection. Go ahead.

6 THE WITNESS: That would be my
7 assumption, considering the person that inputted
8 vendor code, that vendor code implies that it's
9 foreclosure counsel's office that it came from.

10 MR. MALONE: I'm going to have -- these
11 have been previously marked but I will have it
12 marked as Alvarado-9.

13 (Alvarado-9 Invoice dated 3-17-09
14 page PHS 55 marked for identification.)

15 BY MR. MALONE:

16 Q I'll ask you to take a look at
17 Alvarado-9. This has previously been identified by
18 a witness from Phelan, Hallinan and Schmieg as the
19 invoice the law firm uploaded into the New Invoice
20 system.

21 I just ask you if you see anywhere information
22 that the invoice information was input by Mariel
23 Cruz.

24 MS. ROSE-SMITH: Objection. This
25 document speaks for itself.

1 THE WITNESS: I don't see that name or
2 initials on this document.

3 BY MR. MALONE:

4 Q Do you see any entry, quote, service
5 cost dash special process, that's on page 11 of the
6 14 page invoice produced by your employer? Do you
7 see any similar entry on what's been marked as
8 Alvarado-9?

9 A Two things I do see that are in common
10 are the section where it says cost description it
11 says note, transcript. On foreclosure counsel's it
12 shows it as transcripts.

13 Q My question was do you see any entry on
14 the foreclosure counsel invoice similar to the
15 quote, service cost dash special process, close
16 quote, that appears on page 11 of the 14 page
17 document Alvarado-8, the invoices of Phelan,
18 Hallinan and Schmieg, invoices created by --
19 submitted by your employer?

20 MS. ROSE-SMITH: Objection.

21 THE WITNESS: I misunderstood. I
22 thought you asked if there was similar items on both
23 of them.

24 No, I do not see on their invoice where it
25 specifically says service cost special processing.

1 BY MR. MALONE:

2 Q Looking at the two invoices, Alvarado-8
3 page 11 of 14 and Alvarado-9, which is the law
4 firm -- what's been identified previously in
5 testimony as the law firm's invoice, do you have any
6 idea at all how the information, quote, service cost
7 dash special process, close quote, showed up on
8 Countrywide's version of the invoice?

9 MS. ROSE-SMITH: Objection.

10 THE WITNESS: It would be the person
11 that created it that chose that option.

12 BY MR. MALONE:

13 Q And by, the person who created it, who
14 are you talking about?

15 A In the foreclosure firm that submitted
16 this invoice through our New Invoice system to my
17 company.

18 Q Okay. So it's your understanding that
19 someone from the foreclosure firm, in addition to
20 uploading what's been identified as the law firm
21 invoice, separately entered information about,
22 quote, service costs dash special process, close
23 quote?

24 MS. ROSE-SMITH: Objection, that wasn't
25 her testimony at all.

1 THE WITNESS: What I can -- from what
2 my understanding is, when you're processing and
3 you're putting the information inputted, if there's
4 not a specific code you're going to get something
5 closest to.

6 So if there was no code on our system that
7 showed transcripts they picked the nearest item,
8 which is service costs, special processing or
9 process, and then they noted transcripts to identify
10 what they were charging for.

11 BY MR. MALONE:

12 Q Okay. And the "they" in that answer,
13 who's the "they"?

14 A Foreclosure firm or whoever inputted
15 this New Invoice.

16 Q Someone -- by foreclosure firm you mean
17 someone from Phelan, Hallinan --

18 A Yes.

19 Q -- and Schmieg? And is there something
20 in the computer system that automatically scans all
21 the information on what you're saying is the Phalen,
22 Hallinan and and Schmieg invoice or Countrywide's
23 version of it, page 11 of 14, scans that information
24 and produces an entry on AS400, Alvarado-4, that
25 says process server?

1 MS. ROSE-SMITH: Objection.

2 THE WITNESS: What I understand it to
3 be is service cost special process. That is the
4 same thing as process server, is my assumption.
5 Looking at it it auto docs AS400 as soon as payment
6 is made on 3-19.

7 BY MR. MALONE:

8 Q My question is when the Phalen,
9 Hallinan and Schmiege invoice reflected in what your
10 employer has turned over today --

11 MS. ROSE-SMITH: Last week.

12 MR. MALONE: Last week.

13 BY MR. MALONE:

14 Q -- gets submitted, does a human being
15 review the invoice or is it just scanned by a
16 computer? Is it all automated, the New Invoice
17 system?

18 A As indicated on the invoice it says
19 auto approved. There's not a person actually that
20 did it.

21 Q And where does it say auto approved?

22 A If you look at invoice chronology,
23 servicer user, auto approved.

24 Q And --

25 A As I have indicated previously, on the

1 fees due, FBRM, and then the number next to it is an
2 invoice that was received and paid. If an actual
3 person inputted the information you would notice
4 like above it would have different initials, RCLS.
5 That would be a person manually inputting that
6 information on the AS400 fees due.

7 Q Okay. So is it your understanding then
8 that the computer in the course of auto approving
9 this invoice entered onto the AS400 system a \$500
10 charge for, quote, process server, close quote?

11 A As is indicated on the invoice.

12 MR. MALONE: Could I have the question
13 read back, please?

14 (The court reporter read back the
15 following:

16 "Question: So is it your understanding
17 then that the computer in the course of auto
18 approving this invoice entered onto the AS400
19 system a \$500 charge for, quote, process
20 server, close quote?")

21 THE WITNESS: Yes.

22 BY MR. MALONE:

23 Q Now, the auto approval reflects the
24 date of March 19th, 2009, is that correct?

25 A Yes, sir.

1 Q And that's the same date the invoice
2 was created, correct?

3 A In the document, yes.

4 Q And a check request -- according to the
5 next entry towards the bottom, March 19, the same
6 day, a check is requested, correct?

7 A A-C-H; it was electronically wired.

8 Q Okay. Does the words on the invoice,
9 check requested, to your knowledge is that
10 synonymous with an electronic transfer payment?

11 A Synonymous with payment.

12 Q Payment?

13 A Yes.

14 Q And you mentioned A-C-H. What is
15 A-C-H?

16 A I could not --

17 Q Automatic clearing house or --

18 MS. ROSE-SMITH: Automatic clearing
19 house.

20 THE WITNESS: Electronically done, like
21 I do with my bank accounts.

22 BY MR. MALONE:

23 Q So if it's check requested on
24 March 19th, is it your understanding that an
25 electronic transfer went out to the law firm on

1 March 19th?

2 A It was requested. I don't know how the
3 banking system -- if they take days, months, I don't
4 know how they process, but it was requested and it
5 would have been issued. How the bank gets it to
6 them or how it's wired and the time frame, I do not
7 know.

8 Q And the entry at the bottom for March
9 23rd, 2009, check confirmed, does that -- what does
10 the mean to you, check confirmed?

11 A Honestly I do not know. I don't know.
12 I do not know.

13 Q Is there anything indicating on the
14 Countrywide version of the Phelan, Hallinan and
15 Schmieg invoice that there's a balance due?

16 A Not on this invoice.

17 Q Okay. And is there anything from the
18 invoice we're looking at, page 11 of 14, from which
19 you can tell if, in fact, Phelan, Hallinan and
20 Schmieg has received payment as of March 23rd, 2009?

21 A I would assume that's what check
22 confirmed means. I do not know. That would be my
23 assumption.

24 And along -- if you look at invoice status,
25 check confirmed, to me that would indicate they

1 received payment.

2 Q Below -- a few lines below where it
3 says vendor code, F-E-D-P-H-E-N-J, is that, to your
4 knowledge, a vendor code for the law firm Phelan,
5 Hallinan and Schmiege?

6 A That's as far as I know.

7 Q And the payee code, CFC0010405, do you
8 know who that refers to?

9 A I'm sure it refers to Countrywide.

10 Q Countrywide Home Loan Servicing?

11 A CFC? That's what it was when we got
12 Countrywide Financial Corp. CFC at the time we
13 probably got this software, but those are the
14 initials, Countrywide Financial Corp.

15 Q So you talked earlier about a
16 transition from Countrywide to Bank of America. Do
17 I understand that this payee code, Countrywide
18 Financial Corporation, has survived the transition,
19 that it's still in use?

20 A Yes.

21 MS. ROSE-SMITH: Objection.

22 BY MR. MALONE:

23 Q Do you have any knowledge as to the
24 reason invoices are paid so quickly?

25 A It's done electronically. There's

1 payment usually made -- if it's an auto payment it's
2 made within 24 hours and posted to the system within
3 24 hours of requesting it.

4 Q And do you know if there's a
5 contractual obligation between the law firm and your
6 employer to make payment within a certain number of
7 days?

8 MS. ROSE-SMITH: Objection.

9 THE WITNESS: I do not know.

10 BY MR. MALONE:

11 Q This particular process server fee, as
12 reflected on the AS400 entry, is that a charge
13 that's charged against the homeowner?

14 A Yes, sir.

15 Q And can you tell us how you know that?

16 A It says process server 600.

17 Q Um-hmm.

18 A That indicates it's a charge.

19 Q 600 is a charge against the homeowner?

20 A Yes, it's a debit.

21 Q Okay. And just above that, though,
22 there is a F-C-C-H-R-G non C-L-M-B-O-R-R 600.

23 From what I understood from your testimony
24 earlier, that would be something that's not
25 chargeable to the homeowner?

1 A That's correct. Do you want me to
2 explain?

3 Q Yes. Because they both have 600 in
4 them.

5 A Okay. It's a debit, but if I queried
6 these fees due it would allocate out all those non
7 claimable, so those would not be charged to the
8 homeowner, if requesting a reinstatement or a payoff
9 demand they would be exempted out.

10 So it would still charge -- it would still
11 show 600 as a debit, but it's not chargeable to the
12 homeowner, it would not be passed through to the
13 borrower in a reinstatement or a payoff demand.

14 Q In your experience are these non
15 collectible non claimable fees ever reclassified at
16 a later date into collectible or claimable fees?

17 MS. ROSE-SMITH: Objection.

18 THE WITNESS: Not in my experience.

19 BY MR. MALONE:

20 Q Now, in this case you've indicated that
21 the invoice was auto approved. And by that I take
22 it there's no human intervention in the review of
23 the invoice?

24 A That's correct.

25 Q Okay. Do you know if at any time

1 someone from Countrywide has done any kind of audit
2 or quality control to make sure that your system's
3 been properly capturing the information about the
4 event? Let's start with that.

5 MS. ROSE-SMITH: Objection.

6 THE WITNESS: Not that I'm aware of.

7 BY MR. MALONE:

8 Q And do you have any knowledge if on
9 your employer's end anyone does any kind of review
10 of what the law firm has done to make sure the law
11 firm actually has incurred a cost that it claims to
12 have incurred?

13 MS. ROSE-SMITH: Objection.

14 THE WITNESS: The assumption is if
15 we're billed for it and it was processed it was done
16 and completed by the firm.

17 BY MR. MALONE:

18 Q So --

19 A We trust that it was done.

20 Q You mentioned there's a trust factor,
21 is that correct?

22 A Yes.

23 Q If the law firm submits a bill you
24 trust the law firm and pay the bill, is that
25 correct?

1 A Yes.

2 Q To your knowledge has there ever been
3 any instances in your nine years of experience where
4 someone's determined a law firm hasn't been worthy
5 of that trust and someone's investigated the law
6 firm?

7 MS. ROSE-SMITH: Objection. Completely
8 outside of the scope of what she's here to testify
9 about today.

10 BY MR. MALONE:

11 Q Answer the question, please.

12 A Can you rephrase it or repeat it?

13 MR. MALONE: I'll ask it be read back.

14 (The court reporter read back the
15 following:

16 "Question: To our knowledge has there
17 ever been any instances in your nine years of
18 experience where someone's determined a law
19 firm hasn't been worthy of that trust and
20 someone's investigated the law firm?")

21 MS. ROSE-SMITH: I will allow her to
22 answer that question as to Phelan, Hallinan and
23 Schmieg, not as to any other counsel.

24 MR. MALONE: Counsel, you don't get to
25 refrain my question.

1 MS. ROSE-SMITH: Well, I can instruct
2 her not to answer it, and unless you're talking
3 about Phelan, Hallinan and Schmieg I'm going to
4 instruct her not to answer it.

5 MR. MALONE: Okay. Can I have the
6 question read back, please?

7 (The court reporter read back the
8 following:

9 "Question: To our knowledge has there
10 ever been any instances in your nine years of
11 experience where someone's determined a law
12 firm hasn't been worthy of that trust and
13 someone's investigated the law firm?")

14 MS. ROSE-SMITH: You may answer as to
15 Phelan, Hallinan and Schmieg. I instruct you not to
16 answer as to any other firm.

17 THE WITNESS: No.

18 BY MR. MALONE:

19 Q Okay. So no as to Phelan, Hallinan and
20 Schmieg. Now I want an answer to my question.

21 MS. ROSE-SMITH: And I am instructing
22 her not to answer.

23 MR. MALONE: And you have no authority
24 to do that. You are in violation of the rules.

25 MS. ROSE-SMITH: I'm doing it

1 nonetheless.

2 MR. MALONE: Okay.

3 BY MR. MALONE:

4 Q Is there a group within your employer
5 that has responsibility for investigating alleged
6 fraudulent billings by law firms?

7 A I do not know. That's not come up
8 before.

9 Q If you had a question about a law
10 firm's billing who would you take it to?

11 A The firm.

12 Q And if you didn't get a satisfactory
13 answer who would you take it to within your
14 employer?

15 A I would give the answer to my boss and
16 discuss it with my boss.

17 Q Have you ever done that in your nine
18 years of experience?

19 A No, I have not.

20 MS. ROSE-SMITH: Objection.

21 BY MR. MALONE:

22 Q Turning to Alvarado-9, the Phelan,
23 Hallinan and Schmieg invoice that's been identified
24 as what the law firm uploaded into the New Invoice
25 system, do you see the entry at the very bottom of

1 the page -- and I will read into the record the
2 first sentence; recovery of these items set forth in
3 this invoice are actually incurred, period, close
4 quote.

5 Do you see that entry?

6 A Yes, sir.

7 Q Did I read it correctly?

8 A Yes.

9 Q Do you have any knowledge if any of the
10 bills that Phelan, Hallinan and Schmieg submitted,
11 that they actually incurred the costs?

12 MS. ROSE-SMITH: Objection.

13 THE WITNESS: Can you repeat the
14 question?

15 (The court reporter read back the
16 following:

17 "Question: Do you have any knowledge
18 if any of the bills that Phelan, Hallinan and
19 Schmieg submitted, that they actually
20 incurred the costs?")

21 MS. ROSE-SMITH: Same objection.

22 THE WITNESS: I would assume they
23 would.

24 BY MR. MALONE:

25 Q Is that based on trust in the law firm?

1 A Based on my experience.

2 Q And what experience do you have? Have
3 you ever checked to see whether a law firm
4 incurred -- with regard to Phelan, Hallinan and
5 Schmieg have you ever checked to see that they
6 actually incurred a cost for any of the bills they
7 submitted?

8 A With that particular law firm, no, I
9 haven't had an instance where I've had to ask for
10 the backup.

11 Q Okay. And therefore is it based on
12 this trust factor you're confident that they
13 incurred the cost?

14 MS. ROSE-SMITH: Objection.

15 THE WITNESS: If it wasn't out of the
16 ordinary I would not ask for any backup.

17 BY MR. MALONE:

18 Q Let me rephrase the question. On each
19 of the invoices -- and I can show you each of them
20 if you want -- but each of the invoices Phelan,
21 Hallinan and Schmieg has submitted as having been
22 uploaded to the New Invoice system there's an entry
23 at the bottom, quote, recovery of these items set
24 forth in this invoice are actually incurred, period,
25 close quote.

1 Other than Phelan, Hallinan and Schmieg
2 telling you that they have actually incurred the
3 invoice, do you have any independent knowledge that
4 they incurred those costs?

5 MS. ROSE-SMITH: Objection.

6 THE WITNESS: No, I do not.

7 BY MR. MALONE:

8 Q And can you explain how it is that the
9 sentence I read to you shows up on the Phelan,
10 Hallinan and Schmieg version of the invoice but
11 doesn't show up on the Countrywide version of the
12 invoice?

13 A These were pulled from the New Invoice
14 system. I have no idea where these invoices
15 provided to you by the firm pulled that from.

16 Q Okay. Do you see on the top of --
17 towards the top of Alvarado-9 about, oh, six lines
18 down from the beginning of the information the word
19 attention?

20 A Yes.

21 Q And there's a date of March 19, '09?

22 A Yes, sir.

23 Q And then the words New Invoice, two
24 words?

25 A Yes, sir.

1 Q There's been testimony from an employee
2 of Phelan, Hallinan and Schmieg that that represents
3 the date that the Phelan, Hallinan and Schmieg
4 invoice was uploaded to the New Invoice system.

5 Do you have any knowledge if, in fact, A-9 was
6 uploaded into the New Invoice system how it comes
7 out as A-8, page 11 of 14 on your end?

8 MS. ROSE-SMITH: Objection.

9 MS. WELLINGTON: I'm just going to put
10 an objection on the record to the extent that
11 counsel -- and I'm not saying that he is -- but to
12 the extent that counsel may be misrepresenting any
13 testimony given by Phelan, Hallinan and Schmieg, we
14 don't have the transcripts here so we're going by
15 counsel's representation of what that Phelan
16 testimony was.

17 So to the extent that it contradicts or is not
18 consistent with the transcripts, we place our
19 objection.

20 MR. MALONE: Fair enough. And, Miss
21 Romano, the general counsel of Phelan, Hallinan and
22 Schmieg, sat through the whole deposition of that
23 witness, Mr. Caporale. And if I've misrepresented
24 something, please correct the record.

25 MS. ROMANO: You have misrepresented a

1 lot.

2 MR. MALONE: No, on this entry --

3 MS. WELLINGTON: Miss Romano's not
4 going to give any testimony here today.

5 MR. MALONE: I'd ask you to please
6 clarify what the witness said about the New Invoices
7 system. Is there something you want to clarify
8 about what --

9 MS. ROMANO: I'm not testifying.

10 MS. WELLINGTON: Miss Romano is not
11 giving testimony here today.

12 My objection stands. I said to the extent
13 that you have misrepresented or mischaracterized
14 anything that was previously given as testimony on
15 record, then we object. To the extent that you have
16 not, then you're fine.

17 MR. MALONE: Thank you.

18 MS. ROSE-SMITH: My objection is
19 completely different, but nonetheless it's an
20 objection. Let me put that on there after she's
21 done now.

22 BY MR. MALONE:

23 Q The \$500 payment as reflected on both
24 A-9, the Phelan, Hallinan and Schmieg exhibit, and
25 page 11 of 14 of A-8, the Countrywide exhibit, you

1 indicated was made by electronic payment, correct?

2 A Yes, sir.

3 Q Okay. From whose account was that
4 payment made?

5 A My assumption, it would have been from
6 the company's account, Bank of America's account.

7 Q Okay. And, first off, Bank of America
8 didn't have the account back in -- strike that.

9 Depending on when the transition took place
10 that would be a Countrywide account, after the
11 transition would be a Bank of America account,
12 correct?

13 MS. ROSE-SMITH: Objection.

14 THE WITNESS: I would assume.

15 BY MR. MALONE:

16 Q And you assume that it's either the
17 Countrywide account, depending on when the
18 transition took place, or the Bank of America
19 account that the payment comes from, is that
20 correct?

21 A Yes, sir.

22 Q And other than an assumption, do you
23 have any factual basis for knowing that? Have you
24 seen entries in the records of your employer
25 reflecting that the \$500 payment came from an

1 account controlled by your employer?

2 MS. ROSE-SMITH: Objection.

3 THE WITNESS: Have I seen anything? Is
4 that the question?

5 BY MR. MALONE:

6 Q Yes.

7 A Have I seen anything like a paper check
8 that literally came from Bank of America made out to
9 Phelan? I need --

10 Q Or an accounting entry of some kind.

11 A This is our accounting entry. I mean,
12 I don't think I would take -- I'm trying to
13 understand the question. I don't think I would take
14 a check from your account and pay another account.
15 If I was paying the payment it would be from my
16 account.

17 So if Countrywide Home Loans/Bank of America
18 was making the payment it would be from their
19 account, would be my assumption, my understanding of
20 how payments and bills are paid.

21 Q Um-hmm. In instances in your
22 experience where Countrywide uses a sub servicer for
23 default, who pays the invoices initially? Is it the
24 sub servicer or Countrywide?

25 MS. ROSE-SMITH: Objection. I believe

1 the witness testified that she's fuzzy on servicer
2 and sub servicer.

3 THE WITNESS: I don't know.

4 BY MR. MALONE:

5 Q And in instances where Countrywide uses
6 a private label servicer who pays the invoices, --

7 MS. ROSE-SMITH: Same objection.

8 BY MR. MALONE:

9 Q -- the private label servicer or
10 Countrywide initially?

11 MS. ROSE-SMITH: Same objection.

12 THE WITNESS: I don't know.

13 BY MR. MALONE:

14 Q Going back to Alvarado-3, the letter
15 from Miss Sullivan to Mr. Oetheimer, the second
16 numbered paragraph asked for the LandSafe Title
17 foreclosure report and asked for testimony about how
18 this document was created and later transmitted to
19 Phelan, Hallinan and Schmieg, or any other entity,
20 how it was maintained on the computer system and who
21 had access to it.

22 MS. ROSE-SMITH: Was that a question?

23 MR. MALONE: No, it's an introduction
24 from the letter.

25 Let me get a copy of the LandSafe report

1 marked Alvarado-10 -- it's been previously marked as
2 Hallinan-12 -- and ask if a copy has been produced
3 in today's production.

4 MS. ROSE-SMITH: This is --

5 MR. MALONE: Or in the last week or so.

6 MS. ROSE-SMITH: This is not today's
7 production, this is --

8 MR. MALONE: Okay.

9 MS. ROSE-SMITH: -- things counsel had
10 in her bag that she offered to let you look at.

11 MR. MALONE: Has a copy been produced?
12 Do you know if a copy of the LandSafe report is in
13 what was previously produced?

14 MS. ROSE-SMITH: What has previously
15 been produced by Countrywide?

16 MR. MALONE: Yes.

17 MS. ROSE-SMITH: I don't know. Can I
18 see it?

19 MR. MALONE: This was marked as a
20 Hallinan exhibit some time ago.

21 MS. ROSE-SMITH: The only way -- I
22 suspect that it has been produced, and I'm saying
23 that because this looks like it's from the
24 origination file for the Ukpes, and we produced the
25 origination file.

1 MR. MALONE: Okay. And is there
2 something in the index that would reflect that?

3 MS. ROSE-SMITH: Do you want to let
4 everybody else go to the bathroom while I look for
5 the files?

6 MR. MALONE: Sure. Let's take a break.

7 (Brief recess.)

8 MR. MALONE: Were you able to find it?

9 MS. ROSE-SMITH: It looks like we
10 produced that to you within -- with the origination
11 file.

12 MR. MALONE: Do you have any C-W-B-A
13 numbers?

14 MS. ROSE-SMITH: I think -- where did
15 it go? I think 1004 to 1088, but I don't quote me
16 because I'll tell you better when we go back.

17 MR. MALONE: One zero zero four?

18 MS. ROSE-SMITH: It's 01088 is the end
19 number and 01004 is the beginning number. I think.

20 You know what? Actually don't let me lie to
21 you. Actually the Bates label for the servicing
22 file. I just have a little --

23 MR. MALONE: Not --

24 MS. ROSE-SMITH: -- note here.

25 MR. MALONE: -- for the LandSafe file?

1 MS. ROSE-SMITH: I know we've produced
2 it, so let me just find the Bates, because when I
3 was looking through the list I said, you already
4 have that.

5 MR. MALONE: In terms of the -- you
6 indicated earlier today that there was an index.

7 MS. ROSE-SMITH: Well, no, I didn't
8 indicate there was an index, I indicated that it
9 was -- what I had done was in order to determine
10 whether or not we had done what we were supposed to
11 do --

12 MR. MALONE: Um-hmm.

13 MS. ROSE-SMITH: -- I went through all
14 of the productions, not just Countrywide's, and I
15 put in -- I matched them up by request number and I
16 said if you wanted to look at this you could.
17 Although, of course, it's not perfect, it's just
18 what I put together.

19 MR. MALONE: Okay. The request on the
20 March 4th letter that's request number two, is there
21 anything in the file --

22 MS. ROSE-SMITH: Oh, you know --

23 MR. MALONE: -- marked number two?

24 MS. ROSE-SMITH: That's the March 4th
25 letter? I actually have an entry for that.

1 (Discussion off the record.)

2 BY MR. MALONE:

3 Q Going back to Alvarado-8 on page five
4 of 14 towards the -- about two thirds of the way
5 down there's a bolded entry; note, certificate of
6 regularity default review. Do you see that?

7 A Yes, sir.

8 Q In your experience dealing with
9 foreclosures and bankruptcies for your employer over
10 the past nine years does default have a special
11 meaning in terms of the foreclosure litigation?

12 A Can you explain that question?

13 Q Sure. When someone brings a lawsuit
14 and the other side doesn't answer is it commonly
15 known as a default.

16 A I'm trying to fit it in my head, since
17 I only see them after it comes -- after it's been
18 contested, after it's been answered. So I'm not
19 truly familiar with the invoices prior to.

20 Q Okay.

21 A So can you explain it or break it down
22 for me?

23 Q There's a bill here, certificate of
24 regularity default review. Do you see that?

25 A Yes, sir.

1 Q And it reflects towards the bottom a
2 request date of October 30th, 2008 and an amount of
3 \$90. Is that correct?

4 A Yes. From the document, yes.

5 Q And also reflects a payment date of
6 October 31st, 2008. Is that correct?

7 A From the document, yes.

8 Q Do you know if a default had actually
9 been entered in the Ukpe case as of that date?

10 MS. ROSE-SMITH: Objection.

11 THE WITNESS: I know a default had been
12 entered; I could not tell you off hand the exact
13 date.

14 BY MR. MALONE:

15 Q Okay. And how do you know a default
16 has been entered in the Ukpe case at all?

17 MS. ROSE-SMITH: I'm just going to
18 state for the record too that default has a legal
19 meaning, and so far I think that you're asking her
20 what her common understanding of the meaning is.
21 But she's not going to be able to testify about the
22 legal meaning.

23 THE WITNESS: If there was something
24 filed with the court it would be represented
25 actually on the AS400 in the fees due and it would

1 be entered on documentation.

2 BY MR. MALONE:

3 Q Okay. And something entered with the
4 court would have to do with the legal proceedings
5 for default, is that correct?

6 A That's what I would understand.

7 Q Okay. And do you see anything on the
8 AS400 reflecting that in terms of the legal
9 proceedings a default had been entered?

10 A I don't see anything right here that
11 it's been entered according to the documentation
12 here.

13 BY MR. MALONE:

14 Q The documentation here you're looking
15 at is the AS400 documentation Alvarado Exhibit 4?
16 I'm sorry Alvarado -- yes, Alvarado Exhibit 4?

17 A There's nothing auto doc'd or
18 documented with the AS400 other than the fees due
19 entry.

20 BY MR. MALONE:

21 Q And that's the fees due for -- what is
22 the entry?

23 A Relating to the fee, the \$90 fee.

24 Q Can you point out for us where that \$90
25 fee shows up?

1 A CW-Ukpe-01009, trans code 10138. I
2 mean -- sorry -- 10131, October 30th, '08, \$90
3 recording fee.

4 Q Okay. And in the AS400 file the \$90 is
5 reflected as a recording fee, is that correct?

6 A Yes, sir.

7 Q Okay. And how is it that you tie that
8 \$90 recording fee on the AS400 information to the
9 Phelan, Hallinan and Schmieg invoice Alvarado-8 page
10 five of 14? How do you connect the two?

11 A The dates, and considering the New
12 Invoice printed the same date as 10-30-08 and it's
13 FBRM 30, and there's another fee above it, FBRM 30
14 that's on the same invoice for \$260. So that's the
15 way I would relate the two go together.

16 MR. MALONE: Could I have this marked
17 as our next exhibit, please?

18 (Alvarado-10 Invoice dated 10-29-08
19 page PHS 52 marked for identification.)

20 BY MR. MALONE:

21 Q And I show you what's been marked
22 Alvarado-10. It's Bate stamped PHS 52.

23 And I can represent to you for the record it's
24 been previously marked as an exhibit in the
25 deposition of Mr. Caporale from the Phelan, Hallinan

1 and Schmieg firm, it's -- I believe as Exhibit 20.

2 Do you see anything on the -- what's been
3 identified as the Phelan, Hallinan and Schmieg
4 invoice A-10 that contains information similar to
5 what appears on Alvarado-8 at page five of 14 just
6 above that bolded certificate of regularity default
7 review there's an entry, quote, recording costs dash
8 certificate of regularity, close quote.

9 Do you see anything on the actual Phelan,
10 Hallinan and Schmieg invoice that has an entry
11 similar to, quote, recording cost dash certificate
12 of regularity, close quote?

13 A They both contain the section that says
14 certificate of regularity. The invoice from New
15 Invoice also says certificate of regularity.

16 Q My question is more precise. Just
17 above the word certificate of regularity --

18 A It says, recording cost, certificate of
19 regularity.

20 Q Yes.

21 A On the invoice that you questioned me
22 on, on the P-S -- or on PHS 52 it also says
23 certificate of regularity.

24 Q I see it says certificate of
25 regularity. Let me be -- let me narrow my question.

1 Do you see any information on the Phalen,
2 Hallinan and Schmiegl's invoice reflecting the words
3 recording costs? Quote, recording costs, close
4 quote?

5 A No, I do not.

6 Q And do you have any idea how the system
7 picks up this charge as, quote, recording fees,
8 close quote, reflected on the AS400 information,
9 Alvarado-4, CW-Ukpe-101009?

10 A It must have been the process or the
11 option that was chosen. As you notice it says
12 recording cost to be begin the section and then it
13 says dash certificate of regularity identifying what
14 that is.

15 Q And is it your understanding the
16 information on Alvarado-8, quote, recording cost
17 dash certificate of regularity, close quote, would
18 have been entered by someone from the law firm?

19 A That's what I would assume, yes.

20 Q Okay. And do you know who Eugene
21 Jaskiewicz is?

22 A I do not.

23 Q And it's spelled J-A-S-K-I-E-W-I-C-Z.
24 That's the individual, according to the Countrywide
25 version of the invoice, who put the -- did the

1 input. Is that correct?

2 A According to that document, yes.

3 Q Turning to page seven of 14 of the
4 series of invoices there's an entry in the middle of
5 the page, note, eight hours at \$150 an hour, case
6 management conferences, answers to counterclaim,
7 motion for summary judgment. Do you see that?

8 A Yes, sir.

9 Q And the date is October 24th, 2008. Is
10 that correct?

11 A Per the invoice, yes, sir.

12 Q There's a quantity of eight. Does that
13 represent eight hours?

14 A From my understanding, that's what I
15 would assume.

16 Q And the item price, \$150, is that
17 correct?

18 A Yes, sir.

19 Q And the O-R-I-G dot bill, is that
20 original bill? What's O-R-I-G?

21 A I would assume it's originally billed.

22 Q And that's for \$1,200?

23 A From the document, yes.

24 Q Do you know if the law firm is entitled
25 to charge, under its contract with your employer, at

1 an hourly rate?

2 A Yes, sir, that's what I approve.

3 Q I'm sorry?

4 A That's what we approve in my
5 department.

6 Q Okay. I understand it was approved; do
7 you know if they're entitled to be charging at an
8 hourly rate for legal fees?

9 MS. ROSE-SMITH: Objection. That's
10 just argumentative.

11 THE WITNESS: When it becomes litigated
12 and comes to my case management group, that's per
13 our contracted rate.

14 BY MR. MALONE:

15 Q Okay. And if it's not litigated is
16 there just a flat fee?

17 A I would not know that.

18 Q And this particular invoice contains
19 the entry of approved by Amber Hurst, eleven slash
20 seven slash eight in e-mail to Jennifer Peraine,
21 P-E-R-A-I-N-E. Do you know who Amber Hurst is?

22 A Yes, I do.

23 Q Who is she?

24 A She's a litigation specialist under my
25 teams.

1 Q Okay. You supervise her?

2 A Yes, I do.

3 Q Okay. How long has she worked for you?

4 A For the three years I have been there
5 in that department.

6 Q And Jennifer Perraine, who is she?

7 A I don't know specifically. I would
8 assume from the documentation that that would be
9 somebody with the foreclosure law firm.

10 Q And is there a reason, to your
11 knowledge, why this particular invoice reflects an
12 approval by someone from your employer whereas the
13 other ones we've looked at so far don't have any
14 approval by an individual from your employer?

15 MS. ROSE-SMITH: Objection.

16 THE WITNESS: Yes, I do. That means
17 the issue or the loan has been contested and has
18 been moved over from the normal foreclosure
19 specialist to the litigation specialist who has to
20 review and approve all the hourly charges. It's not
21 the normal fees due and would not be auto approved.

22 BY MR. MALONE:

23 Q If I follow your answer, hourly charges
24 by the law firm in litigation have to be
25 individually approved by someone from your employer?

1 A Once it becomes contested, yes.

2 Q Whereas the costs -- the fees and costs
3 that are normal would continue to be automatically
4 processed?

5 A If it was through the foreclosure
6 process, yes. If it had to do with the foreclosure
7 process and not the litigation.

8 Q Okay. And what is the dividing line
9 between a cost that has to do with the foreclosure
10 process and a cost that has to do with a litigation
11 process?

12 A If it comes directly to our department.
13 Anything that's filed going forward has to come to a
14 case management person for approval. So they would
15 have to approve it. So just like if there was MSJ
16 that could have been done through the foreclosure
17 and there was a set criteria for that, that could be
18 auto approved.

19 Once it becomes litigated there's a specialist
20 on it and all approvals are issued directly through
21 that specialist.

22 Q Including approvals for costs?

23 A Could be, it could include approvals
24 for cost.

25 Q Do some costs still get automatically

1 approved?

2 A If it was entered incorrectly through
3 an automated system as a new invoice as a
4 foreclosure it could be. In the litigation side it
5 would not, it would all -- the financial group would
6 automatically kick it out and send it to Amber
7 first, or whoever it's assigned to.

8 Can I -- do you want me to expand on that?

9 Q Please.

10 A We put a warning Code 71 that shows
11 it's in litigation, it does not show it's in normal
12 foreclosure status, therefore anything that comes in
13 should be sent to Amber Hurst to approve.

14 So even if it was part of the foreclosure
15 process and it would have normally been automatedly
16 paid through our New Invoice, it gets kicked out
17 because of that warning code showing it's in active
18 litigation.

19 Q And when do you put that warning Code
20 71 on, what's the trigger event?

21 A Once an answer gets issued directly to
22 the foreclosure specialist.

23 Q And answer, you mean that the
24 homeowner --

25 A By the homeowner --

1 Q -- filed an answer with the court?

2 A -- or any different entity. It could
3 be the homeowner, it could be a homeowner's
4 association, could be different.

5 Q So once an answer is filed with the
6 court that's handling the foreclosure your employer
7 learns of that and would enter a Code 71 onto the
8 system?

9 A That's correct.

10 Q And once the Code 71 is entered do I
11 follow you correctly that all of the billing from
12 the law firm should go to someone from your shop,
13 someone you supervise, for personal review?

14 MS. ROSE-SMITH: Objection.

15 THE WITNESS: Not the actual billing,
16 the request to bill us.

17 BY MR. MALONE:

18 Q Okay. And now I'm trying to understand
19 the difference between the request to bill you and
20 the billing.

21 Before a bill is submitted, once a matter is
22 in litigation and it has a Code 71 attached to it
23 does the law firm have to request permission to
24 submit a bill on a case by case basis?

25 A They need to request and submit the

1 hourly fee for whatever work they completed within
2 that time frame.

3 Like it states here, they would have e-mailed
4 Amber Hurst and said, I need seven hours, and
5 outline what they're doing within those seven hours.

6 She would give approval or denial, they would
7 go ahead and later on place it through New Invoice,
8 it would get kicked out because of the code and
9 would go back to Amber and say, did you approve
10 this? Amber would look at it and say, yes, the
11 foreclosure -- issue it back and say yes, you can
12 make payment.

13 Q Other than hourly work, does this Code
14 71 mechanism apply to costs the law firm is billing
15 for?

16 A I don't understand.

17 Q Okay. The law firm sends a process
18 server out after an answer's been filed. Does it
19 have to be approved by Amber Hurst or someone else?

20 A Once it's placed in that 71 they have
21 to ask permission to do that.

22 Q They have to ask permission to have
23 process served?

24 A It's -- they're -- before they can do
25 that they ask us, we're doing this, it's within

1 their hourly fee. So we approve seven hours. And
2 if that's part of what they're doing within that
3 time frame then, yes, they can go ahead and do that.

4 Q Okay. But what about the cost of the
5 process server, does that have to be approved by
6 Amber also?

7 A The actual cost? No.

8 Q This is what I'm trying to determine.
9 What gets subject to Code 71 treatment verses what
10 gets processed automatically? Do you understand?

11 A No, I don't.

12 Q Okay. A lawyer in a law firm spends
13 five hours writing a brief. If I understand you,
14 that's something that pre approval has to be
15 obtained, correct?

16 A Yes.

17 Q And then once the work's done a bill is
18 submitted, it would go up through New Invoice, it
19 would be kicked out because of the Code 71 --

20 A That's correct.

21 Q -- and then someone would check with --
22 in this case Amber, or a hypothetical name would say
23 it's okay to pay it and it would be paid?

24 A Yes, sir.

25 Q A law firm has to, after the answer's

1 been filed and it's now a contested case, has to
2 serve someone with process. They send a process
3 server out, process server charges \$75 for it. Does
4 the law firm have to have approval to send that
5 process server out beforehand?

6 A If it was within the scope of the seven
7 hours, yes. If it was outside the scope -- I'm
8 trying to -- specifically when it comes down to the
9 hourly fees they usually outline what they're doing.

10 So if there was a process server going to
11 happen within that, they would have given us what
12 they were doing and how much the fee would have
13 been. Do you understand?

14 Q I'm sorry, I don't. Do process server
15 costs get consumed within the \$150 hourly fees?

16 A They will tell us that's what they're
17 doing within the hourly fees, so --

18 Q Send a process server out?

19 A It would be outlined in what they're
20 doing. So if there's additional cost for a process
21 server or for sheriff or so forth, it would all be
22 within the request. Not within the specific seven
23 hours at \$150, but if that was pertaining to the
24 action they were doing that information would be in
25 the e-mail request or the request that was

1 submitted.

2 Q Okay. So if the action they're taking
3 is prosecuting the foreclosure, the contested
4 foreclosure, after an answer's been filed, if
5 there's a cost associated with prosecuting that
6 foreclosure case does approval have to be obtained
7 for that cost?

8 A If the cost matches our criteria she
9 would know about it, she does not have to approve
10 it. She has to approve the hourly fee.

11 Q Okay. And the non hourly issue, the
12 process server cost, she doesn't have to approve
13 that?

14 A No.

15 Q Turning to page nine of 14 towards the
16 middle of the page there's an entry in bold, note,
17 assignment legal cost, and there's an amount of \$50.
18 Do you see that?

19 A Yes, sir.

20 Q Above that there's a submitted date of
21 March 18th, 2009. Do you see that?

22 A Yes, sir.

23 Q And an approved date of March 18th,
24 2009. Do you see that?

25 A Yes, sir.

1 Q But the item date for the work is
2 March 12th, 2008. Do you see that?

3 A Yes, sir.

4 Q Do you have any explanation of why the
5 gap in time between when the cost was allegedly
6 incurred and when it was billed?

7 MS. ROSE-SMITH: Objection.

8 THE WITNESS: That's when -- that's
9 when it was entered. To me looking at it that's
10 when the item was completed or they received it.
11 But they entered it into the New Invoice system on
12 3-18.

13 BY MR. MALONE:

14 Q Three eighteen two thousand --

15 A Nine.

16 Q -- nine. Okay. Do you have any
17 guidelines or requirements that when a cost is
18 incurred it must be billed within a certain period
19 of time after the cost is incurred?

20 A I would not know. Can I point out that
21 that's listed as non recoverable fees, non
22 recoverable foreclosure, and if you go back to the
23 fees due and the AS400 is listed as non claimable,
24 so that's not charged to the borrower.

25 Q Um-hmm. Okay. And again is it your

1 understanding that Mr. Eugene Jaskiewicz entered
2 this information on behalf of the law firm?

3 MS. ROSE-SMITH: Objection.

4 THE WITNESS: As I read the document,
5 that's who's listed.

6 BY MR. MALONE:

7 Q Turning to page 13th of 14 of the
8 invoices, in the middle of the page, bold entry,
9 note, mandatory court appearance, March 3, 2009,
10 \$300. Preliminary hearing, April 20th, 2009, \$300.
11 Do you see that?

12 A Yes, sir.

13 Q And the date of this invoice is March
14 6th, 2009. Is that correct?

15 A Date of the invoice is dated April 6,
16 2009.

17 Q I'm sorry, April 6, 2009. Thank you.
18 And the payment date below that is April 17th,
19 2009. Is that correct? Right under payment
20 information.

21 A Yes, sir.

22 Q And the payment amount is \$600, is that
23 correct?

24 A From this document, yes, sir.

25 Q And this document reflects that of that

1 \$600, \$300 was for a mandatory court and answer on
2 March 3rd, 2009, correct?

3 A Per the document, yes, sir.

4 Q And another remaining \$300 was for a
5 plenary hearing on April 20th, 2009?

6 A Per this document, yes, sir.

7 Q Do you know if the attorneys ever
8 appeared in court on March 30th, 2009?

9 A I would assume they did.

10 Q Do you know?

11 A Do not know for sure.

12 Q Do you know if the attorneys ever
13 appeared at a plenary hearing on April 20th, 2009?

14 A I do not know for sure.

15 Q Okay. If the attorneys hadn't appeared
16 on a plenary hearing on April 20th, 2009 is there
17 something that they should have done?

18 A I don't know -- I don't understand the
19 question.

20 Q Well, they have been paid for a plenary
21 hearing, attending a plenary hearing on April 20th,
22 2009. Correct?

23 A According to the document, yes.

24 Q And if, in fact, they have been paid,
25 the payment date is three days before the reported

1 plenary hearing. Correct?

2 A Yes, sir.

3 Q Suppose the plenary hearing didn't take
4 place. Is there something the law firm should have
5 done?

6 MS. ROSE-SMITH: Objection.

7 THE WITNESS: My assumption would be if
8 by chance they did not appear they would reimburse
9 us, as other firms have done in the past.

10 BY MR. MALONE:

11 Q Okay.

12 A Unless it's been continued and they
13 have to show it on another date.

14 Q Right. Do you see anything in the
15 AS400 data, Alvarado-4, reflecting the law firm
16 reimbursing your employer \$300 with respect to the
17 April 20th, 2009 plenary hearing?

18 A Not from the fees due, no, I do not.

19 Q And the input here is by a Patrick
20 Wirt. Do you know Patrick Wirt?

21 A No, I do not.

22 Q Is it your understanding he's a law
23 firm employee?

24 A From reading the invoices throughout
25 this deposition I would assume he would be.

1 MR. MALONE: Could I have a copy of the
2 LandSafe Title report marked as Alvarado-11?

3 (Alvarado-11 LandSafe Title report
4 marked for identification.)

5 BY MR. MALONE:

6 Q And it's been previously marked as
7 Hallinan Exhibit 12 in a deposition of March 17th,
8 2009. And Caporale Exhibit 35, I believe in the
9 deposition of Mr. Caporale and also Mullen-5 in the
10 deposition of Mr. Mullen. So now it's been marked
11 for this deposition as Alvarado-11.

12 A Okay.

13 Q Have you seen the LandSafe report prior
14 to today?

15 A I know for sure I have seen the first
16 two pages. I might have seen the whole thing, I
17 can't tell you for sure, but I do know that I do
18 remember seeing the first two pages.

19 Q Okay. And do you recall when you saw
20 it? Approximately.

21 A When I was preparing for this
22 deposition.

23 Q Is that in the last week or two?

24 A Yes, sir.

25 Q Turning to the third page of the

1 exhibit there's a name that appears at the top,
2 Jeremy Trechock, T-R-E-C-H-O-C-K. Do you know if
3 Mr. Trechock was employed by LandSafe?

4 A I do not know that.

5 Q Other than my pointing out the name to
6 you today have you heard the name Jeremy Trechock
7 before today?

8 A No, sir.

9 Q Do you have any idea how LandSafe goes
10 about gathering the information that's contained in
11 the LandSafe report?

12 A No, I do not.

13 Q Do you have any idea about how LandSafe
14 received the information contained in the LandSafe
15 report?

16 MS. ROSE-SMITH: Objection.

17 THE WITNESS: No, I do not. I'm trying
18 to figure out -- as in they received it, like all
19 the pages or received the request to run the report?

20 BY MR. MALONE:

21 Q Let's take it in two parts. Received
22 it, first of all, the pages, how --

23 A No, I do not.

24 Q Okay. And secondly, how they received
25 the report to do -- request to do the report?

1 A Yes, I do.

2 Q Okay. On that what's your
3 understanding?

4 A Per AS400 the request was made to
5 LandSafe to order the report. Along with the report
6 was provided the foreclosure counsel's name, that
7 once the report was run and completed it should be
8 forwarded to them.

9 Q And other than what you have testified
10 to so far, do you have any idea how the document was
11 created?

12 MS. ROSE-SMITH: Objection.

13 THE WITNESS: No, I do not.

14 BY MR. MALONE:

15 Q And do you have any idea how it was
16 transmitted to Phelan, Hallinan and Schmieg?

17 A No, I do not.

18 Q Do you know if your employer transmits
19 it to Phelan, Hallinan and Schmieg?

20 MS. ROSE-SMITH: Objection.

21 THE WITNESS: No, I do not.

22 BY MR. MALONE:

23 Q Do you know if LandSafe transmits it to
24 Phelan, Hallinan and Schmieg?

25 A No, I do not know for sure.

1 Q Do you know if a third party vendor
2 transmits it to Phelan, Hallinan and Schmieg?

3 A No, I do not.

4 Q Do you know who paid LandSafe for the
5 report?

6 A Yes, I do.

7 Q And that's based on the prior entry we
8 discussed, the \$300?

9 A Correct.

10 Q Okay. Do you know if LandSafe paid
11 anything to Mr. Trechock in connection with any work
12 he might have done?

13 A No, I do not.

14 Q Is the LandSafe report maintained on
15 your employer's computer system?

16 A A copy of it is in the image, it's in
17 the file. So we have our imaging system that
18 contains a copy of the note, a copy of the deed,
19 this copy of the title report should be in the
20 imaged file.

21 Q And that's what we asked for in this
22 document. But we'll put in it writing and ask for
23 it again.

24 MS. ROSE-SMITH: And that's what I told
25 you would be in the origination file, which is the

1 imaged file that she's just said is where it would
2 be.

3 MR. MALONE: Right. And we haven't
4 gotten it so far.

5 MS. ROSE-SMITH: No, I actually did
6 give it to you. What I said earlier was that I'll
7 either give you the Bates number for where it is or
8 I will produce it if we have it, but that I suspect
9 it's in the origination file because I pulled the
10 origination file down from their image file.

11 MR. MALONE: Did you give us the Bates
12 number range for the origination file?

13 MS. ROSE-SMITH: I would to have e-mail
14 somebody and have them e-mail me back.

15 MR. MALONE: If you could do that so we
16 have it?

17 Could I have this marked as our next exhibit?

18 (Alvarado-12 Stacking checklist marked
19 for identification.)

20 BY MR. MALONE:

21 Q I show you what has now been marked as
22 Alvarado-12 and and invite your attention to
23 paragraph three of Miss Sullivan's March 4 letter to
24 Mr. Oetheimer requesting the contents of the
25 specialty lending stacking checklist file, testimony

1 about how this file was assembled and maintained and
2 who had access to it.

3 Have you produced the contents of the
4 specialty lending stacking checklist file today?

5 MS. ROSE-SMITH: Today?

6 MR. MALONE: Today or previously.

7 BY MR. MALONE:

8 Q If you know.

9 A Looks like everything that would be
10 listed in the origination packet, whoever closed on
11 the loan it should all be in the origination packet.

12 I don't know for sure if all these items are
13 there, it's not my checklist, it is not a
14 Countrywide checklist.

15 Q Whose checklist is it?

16 A Looks to me like a closing agent's
17 checklist when they're obtaining all the documents.
18 It does not look -- it's not a Countrywide document,
19 it looks like something that would be with the
20 origination packet at the time of closing; how they
21 assemble it, process it, put it together and submit
22 it.

23 Q Do you know who Dawn Fischer is?

24 A I do not know.

25 Q And do you know how it came -- it has a

1 CW-Ukpe number 00370 reflecting it was produced in
2 discovery by Countrywide. Do you know how
3 Countrywide came to have a copy of it?

4 A Like I said, if we submitted the
5 origination packet this looks like a document -- a
6 checklist that would have been submitted with the
7 origination packet.

8 Q And submitted to Countrywide?

9 A At the time the loan closed.

10 Q And I had asked you to look at both
11 pages. Is it your -- and ask you whether you feel
12 that all the documents listed on the two pages of
13 the exhibit would be included in the origination
14 file.

15 MS. ROSE-SMITH: Objection.

16 THE WITNESS: I don't know if all the
17 documents are in the origination file. I would
18 assume that the closing agent that prepared this
19 checklist as they checked it off they had the
20 document and they should have forwarded along all
21 these documents to us.

22 BY MR. MALONE:

23 Q This is a particular file, a specialty
24 lending stacking checklist. I take it from your
25 testimony you're not familiar with the document?

1 A I don't originate loans, no, I'm not
2 familiar with the document.

3 Q Okay. At the top of the document it
4 says specialty lending stacking checklist, A-C-C-O,
5 to the left side of two part folder, colon, critical
6 documents. The phrase A-C-C-O to the left side,
7 does that mean anything to you?

8 A No.

9 Q And on the second page it has A-C-C-O
10 to the right side of two part folder. Does that
11 entry mean anything to you?

12 A I have it backwards. They are stapled
13 backwards. My first sheet says A-C-C-O to the right
14 side; my second sheet says A-C-C-O TO the left side.

15 Q Okay.

16 MS. ROSE-SMITH: And I'm just going to
17 put an objection in. I'll let you ask if any of the
18 phrases mean anything to her, but it's not her
19 document and she's already testified about that.

20 MR. MALONE: Understood. Thank you.

21 BY MR. MALONE:

22 Q It's Bate stamped by Countrywide at the
23 bottom ending in 00370 and the second page would be
24 00371 by the Bate stamps.

25 MS. ROSE-SMITH: Yeah. You stapled it

1 backwards.

2 THE WITNESS: Yeah, you stapled it
3 backwards.

4 BY MR. MALONE:

5 Q Okay. Starting with the page that has
6 CW-Ukpes-00371, did you make any effort to provide
7 the contents of this specialty lending stack list --
8 stacking checklist file?

9 MS. ROSE-SMITH: Are you asking her
10 personally or did the company?

11 MR. MALONE: I'm asking her personally
12 to start.

13 THE WITNESS: No, I did not.

14 BY MR. MALONE:

15 Q Do you know if the company made any
16 effort to provide, as requested, the contents of the
17 specialty lending stacking checklist file?

18 A If a request was made for the
19 origination packet and this was along with it I
20 would assume that it was provided, since this is
21 stamped with CW, Countrywide. But I do not know for
22 sure.

23 Q Okay. The request was made for the
24 contents of this specialty lending stacking
25 checklist. Do you know if anyone in the company

1 made an effort to gather the contents of this
2 checklist and make them available for your testimony
3 today?

4 MS. ROSE-SMITH: Objection.

5 BY MS. ROSE-SMITH:

6 Q Yes or no?

7 A I don't know. This is not my
8 checklist.

9 Q I understand. This is a Countrywide
10 document provided by your employer.

11 MS. ROSE-SMITH: Objection. It is a
12 document provided by Countrywide, it's not a
13 Countrywide document.

14 THE WITNESS: Is the question did we go
15 through the checklist that was provided at
16 origination and make sure that you provided -- you
17 received everything that we had that was forwarded
18 from the origination --

19 BY MR. MALONE:

20 Q No.

21 A -- of the loan?

22 Q My question is; in the course of this
23 litigation, in the course of discovery by requests
24 made by the attorneys representing the Ukpes a
25 letter was written to your counsel, Mr. Oldheimer,

1 calling for a witness from your employer who could
2 bind your employer and talk about certain areas.

3 One of those areas was the contents of the
4 specialty lending stacking checklist. You were
5 produced today to talk, in part, about that topic.
6 Are you at all able to talk about that topic?

7 MS. ROSE-SMITH: Objection. She was
8 produced today to tell you what she knows about that
9 document, which is that she didn't produce the
10 document and it is not a Countrywide document.

11 We have standing objections to that and the
12 question that she asked you, if it was the one that
13 you were asking, is actually the better one because
14 she does have an answer to that one. She doesn't
15 have an answer to what you're saying.

16 THE WITNESS: According to this
17 checklist everything that was provided from the
18 originator of the loan we made every effort, the
19 different departments, different people, to provide
20 everything in the origination packet that could
21 coincide with this list that was provided to us.

22 BY MR. MALONE:

23 Q And, I'm sorry, I don't follow that.

24 A I didn't --

25 MR. MALONE: Could I have the answer

1 read back, please?

2 (The court reporter read back the
3 following:

4 "Answer: According to this checklist
5 everything that was provided from the
6 originator of the loan we made every effort,
7 the different departments, different people,
8 to provide everything in the origination
9 packet that could coincide with this list
10 that was provided to us.")

11 BY MR. MALONE:

12 Q Okay, I follow your answer. Your
13 understanding is the documents contained in the
14 specialty lending stacking checklist were provided
15 by the originator of the loan. Is that correct?

16 A No.

17 Q Who provided the documents? Who gave
18 them to whoever put this in a file, if you know?

19 MS. ROSE-SMITH: Objection.

20 THE WITNESS: I thought I answered
21 that. This was not by our company, this was by the
22 originator of the closing agent, whoever closed,
23 originated this loan had this checklist, they had
24 documents.

25 My counsel asked me to produce the origination

1 packet that should have accompanied this and I
2 believe to the best of my knowledge they provided
3 all of our information to you.

4 BY MR. MALONE:

5 Q And who do you understand the
6 originator of the loan is?

7 A Morgan Funding.

8 Q And it's your understanding that Morgan
9 Funding created this checklist?

10 A That's my assumption.

11 Q What's the basis, what's the factual
12 basis for your assumption?

13 A We did not originate the loan. All
14 these documents would have been when they applied
15 for the loan and that was gathered at the time they
16 applied for the loan and it actually went ahead and
17 it processed through.

18 Q Okay. The loan closed on July 29th,
19 2005. Dawn Fischer's name appears at the bottom
20 followed by the date of August 9th, 2005. Do you
21 see that?

22 A Yes, sir.

23 Q So that this document is prepared after
24 the closing, if the closing occurred on July 29th,
25 2005. Is that correct?

1 A That document looks like it was
2 prepared on that date that she has on there.

3 Q And your employer, in discovery,
4 produced this file.

5 MS. ROSE-SMITH: Actually I want to put
6 an objection.

7 MR. MALONE: Produced these two pages.

8 MS. ROSE-SMITH: I want to put an
9 objection here because depending on where the Bates
10 label -- I'm not sure whether it was CHLS who
11 produced it or CHL. CHL is the origination piece of
12 this.

13 You have noticed the servicer, so she's here
14 to tell you what the servicer knows about that
15 document, which, as she's already told you, isn't
16 much.

17 BY MR. MALONE:

18 Q Who within the Countrywide organization
19 presently has custody and control of the specialty
20 lending stacking checklist, if you know?

21 MS. ROSE-SMITH: Objection. You
22 mean -- do your best.

23 THE WITNESS: I need it explained to
24 me. I'm kind of -- I don't understand the question.

25 BY MR. MALONE:

1 Q You just heard your counsel say that we
2 noticed for a deposition Countrywide Home Loan
3 Servicing and that this might be a Countrywide Home
4 Loan document.

5 MS. ROSE-SMITH: No, that's not what I
6 said. I said that the Countrywide Home Loans is the
7 portion of the company that originates loans and
8 deals with other originators.

9 Countrywide Home Loan Servicing is the portion
10 of the company that services loans. They are
11 separate entities.

12 You have noticed the servicer and the servicer
13 is telling you that she doesn't know about that
14 document. Home Loans may, I don't know.

15 MR. MALONE: Okay.

16 MS. ROSE-SMITH: Home Loan Servicing
17 does not.

18 MR. MALONE: For purposes of responding
19 to a deposition, Countrywide Home Loans is a
20 separate entity with its own responsibilities from
21 Countrywide Home Loan Servicing, L.P.?

22 MS. ROSE-SMITH: Unequivocally. You
23 noticed the servicer and not anything about
24 Countrywide Home Loans, Inc. I assume that was on
25 purpose, because you wanted to talk about costs and

1 fees.

2 THE WITNESS: I mean, I --

3 MR. MALONE: These documents were
4 presented on behalf of answering the interrogatories
5 addressed to all three parties and they were
6 presented as the answers to all three parties, so --

7 MS. ROSE-SMITH: Well, no.

8 MR. MALONE: Yes.

9 MS. ROSE-SMITH: No, no.

10 MR. MALONE: The record will reflect --

11 MS. ROSE-SMITH: Allow me to explain
12 that, because -- allow me to explain that.

13 If you sent a document request to Countrywide
14 Home Loans Servicing requesting something that was
15 in Countrywide Home Loan's possession, Countrywide
16 Home Loans may produce the thing but if Countrywide
17 Home Loans Servicing has it or has a copy of it or
18 it's in the image file that's accessible to
19 Countrywide Home Loan Servicing, then it would have
20 been produced all together.

21 I understand that you're trying to get at
22 whose document it is, and I'm telling you that the
23 originator is probably the person you need to talk
24 to.

25 But there's no crazy conspiracy on this one,

1 it's just -- you asked for it from the -- you asked
2 for the same thing from three different people and
3 we produced it on all three people's -- different
4 entity's behalf. Because you asked for it from all
5 three, not because it belonged to all three, but
6 because if it was in the possession of, custody or
7 control of any of the three, then we produced it.

8 And she told you that this document would be
9 available in the imaged file, therefore it is in the
10 control or custody of Countrywide Home Loan
11 Servicing.

12 All we did was produce it. She's not saying
13 that she knows anything about it, and I'm telling
14 you you should ask the Countrywide originator.

15 MR. MALONE: If I understand you
16 correctly, counsel, -- and I will now direct the
17 question to the witness.

18 BY MR. MALONE:

19 Q An image of this document,
20 CW-Ukpe-00370 dash 00371 is accessible to your
21 employer?

22 A That's correct.

23 Q Do you know if in the ordinary course
24 the contents of the file were imaged?

25 A They usually are.

1 Q Okay. And do you -- does your employer
2 have access to that image of the contents of the
3 file?

4 A That's correct.

5 Q Was any effort made on your employer's
6 part to access that image, if you know?

7 A From -- yes, we made every effort
8 within the company to provide all requested
9 documents.

10 Q Yes, someone tried to access the image
11 of the contents of this file from Countrywide --
12 Countrywide Home Loan Servicing's access?

13 MS. ROSE-SMITH: Objection.

14 THE WITNESS: We provided all the
15 information that we had in the origination file that
16 coincides with this checklist. I did not myself
17 look for every item, if that's what you're asking
18 for.

19 BY MR. MALONE:

20 Q Okay. We've established that this
21 imagine, the two pages here, reside or are
22 accessible to your employer by going onto the
23 computer system. Correct?

24 A Yes.

25 Q And you have also established that in

1 the ordinary course the contents of this file would
2 be imaged. Is that correct?

3 A Should be, yes.

4 Q And we've also established that if they
5 were imaged, the contents were imagined, in the
6 ordinary course Countrywide Home Servicing would
7 have access to the imaged file?

8 A Yes.

9 Q And my question is; has anyone
10 attempted to access that image of the contents of
11 the file from Countrywide Home Loan Servicing?

12 MS. ROSE-SMITH: She's already answered
13 that.

14 BY MR. MALONE:

15 Q If you know.

16 MS. ROSE-SMITH: Objection.

17 THE WITNESS: I thought I did answer
18 this previously. Yes.

19 BY MR. MALONE:

20 Q Yes. Who tried to access the image of
21 the contents of this file from Countrywide Home Loan
22 Servicing?

23 A I could not tell you that.

24 Q How do you know someone attempted to do
25 it?

1 A Because it was requested of different
2 entities, different departments within our group to
3 get all the information, so we supplied all the
4 information we had.

5 Q Other than that answer you just gave,
6 do you have any knowledge whether a human being
7 actually tried to go into the Countrywide Home Loan
8 system and access the image of the contents of this
9 file?

10 MS. ROSE-SMITH: Objection.

11 THE WITNESS: Everything that
12 accompanied this check sheet was provided to our
13 counsel.

14 MR. MALONE: Okay. Counsel, you have
15 not provided us the contents of this document.

16 MS. ROSE-SMITH: Can we go off the
17 record? I would like the witness to leave the room.

18 MR. MALONE: Unless it's a privilege
19 matter you're not allowed --

20 MS. ROSE-SMITH: No, I'm not taking her
21 out of the room, I want her to leave so that I can
22 explain to you what I understand without tainting
23 her testimony.

24 She can stay if you want, I'm just trying to
25 do that.

1 MR. MALONE: I'm not interested in your
2 explanation, sorry.

3 MS. ROSE-SMITH: Well, then, you can
4 ask me for that document and I will tell you on the
5 record the same as I told you five minutes ago when
6 you started the whole round-robin; we already gave
7 it to you. Keep moving.

8 MR. MALONE: The contents of this
9 specialty stacking list we do not have.

10 MS. ROSE-SMITH: Yes. The contents of
11 that list are the different pieces of the document
12 in the origination file, which we've produced to you
13 already. Hello.

14 MR. MALONE: Hello. Hello, Miss
15 Smith-Rose. Can you tell us --

16 MS. ROSE-SMITH: It's Rose-Smith.

17 MR. MALONE: Rose-Smith. Can you tell
18 us where in the contents of the files you've
19 produced there are signed copies of the Ukpes' tax
20 returns that are part of that file?

21 MS. ROSE-SMITH: It would be -- if we
22 have any of the documents on this list they're in
23 the origination file, which you already asked for
24 the Bates label of and I sent an e-mail.

25 MR. MALONE: We've been through all the

1 documents you submitted; there are no signed tax
2 returns by the Ukpes in those documents.

3 MS. ROSE-SMITH: Well, then, that means
4 that in our --

5 MR. MALONE: So your representation
6 that you have turned over the contents of the
7 file --

8 MS. ROSE-SMITH: No.

9 MR. MALONE: Unless something's been
10 removed --

11 MS. ROSE-SMITH: I'm going to try and
12 explain this to you in a sensible way.

13 This checklist is created by the closer.
14 Okay? Who may have a number of different documents
15 who -- that they're using when Morgan Funding puts
16 together the loan file. All right? So there's
17 that. All right? And that is this little checklist
18 that they put together.

19 Some of those documents get transmitted to
20 Countrywide as part of the origination file. Maybe
21 all of them, maybe not. The ones that Countrywide
22 has in its possession it has turned over to you from
23 this checklist, including a copy of the checklist
24 itself.

25 If there are documents on this list that

1 Countrywide doesn't have, you need to go to Morgan
2 Funding for them.

3 MR. MALONE: Don't tell us where we
4 need to go, please.

5 Did you request the Bate stamp numbers in an
6 e-mail?

7 MS. ROSE-SMITH: I did. And I will
8 provide it to you if they e-mail me back. But, you
9 know what? Amazingly the people at Goodwin Proctor
10 have better things to do today.

11 MR. MALONE: Yeah.

12 MS. ROSE-SMITH: Being prepared after
13 the closing does not mean it was not prepared by the
14 closer. Wow. You know so little about mortgage
15 lending. My God.

16 MR. MALONE: And you're going to
17 educate me that Dawn Fischer's an employee of Morgan
18 Funding? Is that what you're going to tell me?

19 MS. ROSE-SMITH: I don't know who Dawn
20 Fischer is and I don't care.

21 BY MR. MALONE:

22 Q The request for the deposition today
23 was for the contents of the entire specialty lending
24 stacking checklist. Is there anything here today
25 that you're aware of that is part of the contents of

1 the specialty lending stacking checklist?

2 MS. ROSE-SMITH: Objection. You've got
3 piles of paper all over this thing. Where are you
4 saying? In this stack? In stuff she brought with
5 her today?

6 MR. MALONE: Here today. The witness
7 was supposed to be producing and testifying --

8 MS. ROSE-SMITH: There's paper all over
9 the place.

10 THE WITNESS: Are you asking me to
11 locate each and every item that's on the checklist?
12 Is that what you're asking me for?

13 BY MR. MALONE:

14 Q I'm asking you to your knowledge, yes
15 or no, if there are documents here today that are a
16 part -- that came from that file, came from that
17 file.

18 MS. ROSE-SMITH: Objection.

19 BY MR. MALONE:

20 Q Not came from some other file, but came
21 from --

22 MS. ROSE-SMITH: Objection.

23 BY MR. MALONE:

24 Q Are there any documents here today to
25 your knowledge that came from the specialty lending

1 stacking checklist file?

2 MS. ROSE-SMITH: Objection.

3 BY MR. MALONE:

4 Q Yes or no?

5 MS. ROSE-SMITH: Or I don't know.

6 THE WITNESS: It would be I don't know
7 for sure.

8 BY MR. MALONE:

9 Q Paragraph four dealing with the
10 receipt, processing and payment of all billings and
11 invoices submitted by any vendor, including Phelan,
12 Hallinan and Schmieg in connection with the Ukpe
13 foreclosure case, have you produced to your
14 knowledge all of the billings and invoices submitted
15 by any vendor in connection with the Ukpe case?

16 A From my understanding I provided all
17 the invoices that were submitted to Phelan's office.
18 The items that were submitted through LandSafe are
19 submitted through their system, payments submitted
20 through their system.

21 Q And when they make a request for
22 payment it's an electronic record?

23 A I believe so.

24 Q Okay. And you haven't brought the
25 images of those electronic records today, have you?

1 A No, because it's done on LandSafe's --
2 I would have to have LandSafe's permission to pull
3 it.

4 You asked for invoices that were paid and we
5 have proof on our end, which is what I provided.
6 The Phelan's invoices is what we had on our New
7 Invoice system.

8 Q And if I understand your answer
9 correctly, you, even though you paid the invoice to
10 LandSafe, have no access to the underlying invoice
11 by LandSafe, you'd have to get permission to access
12 it?

13 A I don't have access to their invoices,
14 I'd have to get that information from LandSafe.

15 Q Their invoices are submitted to your
16 employer and your employer pays them. Who in your
17 employer has access to the invoices that were paid
18 to LandSafe?

19 MS. ROSE-SMITH: Objection, assumes
20 facts.

21 THE WITNESS: It would all be
22 processed, I believe, through the finance
23 department.

24 BY MR. MALONE:

25 Q Okay. You're here to speak today for

1 your employer, so we're going to ask that those
2 invoices be provided pursuant to paragraph four.

3 MS. ROSE-SMITH: Which invoices?
4 LandSafe?

5 MR. MALONE: Exhibit A-3, invoices
6 submitted by LandSafe, yes. And any other vendor,
7 whether it's Mr. Trechock or Full Spectrum Legal
8 Services.

9 MS. ROSE-SMITH: There's only LandSafe
10 and Phelan. We'll do our best.

11 MR. MALONE: We hear your
12 representation.

13 BY MR. MALONE:

14 Q Paragraph five calls for testimony
15 regarding the accounting system maintained by your
16 employer and used in servicing the would-be mortgage
17 loan account, including accounts payable and
18 receivable ledger entry made by Countrywide in
19 connection with the Ukpe foreclosure case.

20 What can you tell us about that accounting
21 system in addition to what's been discussed today?

22 A Nothing further. Unless you're asking
23 something different. I gave you all the information
24 I had on the New Invoice system, which we went over
25 extensively when we went over the fees due.

1 Q You have mentioned a New Invoice
2 program. Are there any other programs that you're
3 aware of that make up or are part of the accounting
4 system?

5 A Not that I'm aware of.

6 Q Who maintains the computer system, the
7 AS400 system for you?

8 A What do you mean by maintain?

9 Q Who services it, makes sure it keeps
10 running?

11 A We do.

12 Q Your own in-house staff?

13 A Correct.

14 Q Paragraph six calls for testimony about
15 the mortgage servicing package or platform MSP used
16 in connection with the Ukpes' loan. What MSP is
17 used?

18 A AS400.

19 Q For how long have you used the AS400
20 system?

21 A As long as I've been working for the
22 company, for nine years. Nine a half, nine going on
23 ten in August.

24 Q Does Lender Processing Services have
25 access to that system?

1 MS. ROSE-SMITH: Objection.

2 THE WITNESS: I don't specifically know
3 that company's name or that vendor's name.

4 BY MR. MALONE:

5 Q Does Fidelity National Information
6 Systems have access to that AS400 system?

7 A No.

8 Q Who does have access to the system
9 outside of your employer?

10 A As far as I know only employees of the
11 company have access to that system, the AS400
12 system.

13 Q Okay. Does the AS400 system interface
14 with other computer systems?

15 A Yes.

16 Q What other computer systems does it
17 interface with?

18 A Business Partners Interface. They can
19 not -- they can view the information from their end,
20 they can not input any information and whatever they
21 do input, like a foreclosure sale date, it's
22 automatically auto documented here in the AS400
23 system. So they do not use the system directly.

24 Q And is Business Partners Interface a
25 name for a system, a trade name or --

1 A I do not know.

2 MS. ROSE-SMITH: Counsel, also you can
3 talk to her about this system, the interface about
4 AS400, but I'm not going to let her go too far
5 because we don't have a protective order in this
6 case; your side's refused to sign one, so the
7 deposition doesn't have any protection for
8 Countrywide's trade secret information.

9 MR. MALONE: If you're going to assert
10 a trade secret, please feel free to, but I'm ready
11 to move on.

12 MS. ROSE-SMITH: Then by all means.

13 BY MR. MALONE:

14 Q Paragraph seven calls for Countrywide's
15 agreements with the Phelan, Hallinan and Schmieg law
16 firm, including retainer agreements, compensation
17 agreements and contracts for providing legal
18 services.

19 First off, to your knowledge is there any kind
20 of written contractual agreement between your
21 employer, Countrywide Home Loan Servicing, L.P., and
22 Phelan, Hallinan and Schmieg?

23 A Yes.

24 Q And what can you tell us about that
25 agreement between your employer and the law firm?

1 MS. WELLINGTON: I'm just going to put
2 an objection to the extent that this is the document
3 that Judge Todd has previously ruled is confidential
4 and need not be disclosed.

5 MR. MALONE: I don't have the document
6 in front of me, but my recollection is that's a
7 document between Countrywide Financial Corporation
8 and the law firm, not between Countrywide --

9 MS. WELLINGTON: There were several
10 parties to the agreement. I also don't have it
11 before me, but --

12 MS. ROSE-SMITH: I've got it somewhere,
13 actually. What number was that?

14 MR. MALONE: Number four.

15 MS. WELLINGTON: Seven.

16 MS. ROSE-SMITH: I will represent to
17 you --

18 MR. MALONE: I'm sorry, number seven.

19 MS. ROSE-SMITH: -- the witness knows
20 what -- the parties to the agreement, which is what
21 is all the information that she's prepared to give
22 today because of what Judge Todd has previously
23 ordered.

24 MR. MALONE: Okay. Judge Todd
25 previously ordered something with another document.

1 Unless you're representing that's the same document?

2 MS. ROSE-SMITH: Are you asking about
3 the agreement between Countrywide and Phelan?

4 MR. MALONE: I'm asking about the
5 agreement she just testified to that exists between
6 her employer and Phelan.

7 THE WITNESS: Is that not Countrywide
8 and Bank of America? Is that somebody different?
9 I'm honestly -- I'm looking at all the employers.

10 BY MR. MALONE:

11 Q Your employer is an entity called
12 Countrywide Home Loan Servicing, L.P., or formerly
13 known as Countrywide Home Loan Servicing, L.P.,
14 presently known as BAC Home Loan Servicing, L.P.
15 Correct?

16 A Yes.

17 Q Is that a separate business entity from
18 other businesses, such as Countrywide Home Loans,
19 Inc. or Countrywide Financial Corporation or
20 whatever the successor companies are? Do you
21 understand that?

22 A I understand portions of that, but also
23 I know there's d/b/a's and there's -- the company
24 uses d/b/a's in different places. So I'm confused.

25 Q That's fine. Your counsel has tendered

1 to you an agreement, is that correct?

2 A A portion of an agreement, yes.

3 Q A portion of an agreement. How many
4 pages is that portion that you have?

5 A Two.

6 Q Okay. And on the second page are there
7 signatories?

8 A Yes.

9 Q Okay. And if I observe correctly, this
10 is the document that Judge Todd has turned over to
11 us as a public document.

12 MS. WELLINGTON: That's not correct.
13 This is a document that after we had engaged in
14 briefing to Judge Todd as to whether or not the
15 Countrywide/Phelan agreement was privileged, Judge
16 Todd issued an order ruling that it was indeed
17 privileged, but that we were to produce a redacted
18 version which showed -- the first paragraph would
19 list the parties to the agreement and the last page
20 that lists the signatories. This is not a public
21 document.

22 MR. MALONE: Okay. But this is the --
23 what the witness is looking at is the redacted
24 document?

25 MS. WELLINGTON: It's the redacted

1 document.

2 MS. ROSE-SMITH: Yes.

3 MR. MALONE: Is there a reason we can't
4 have it marked as an exhibit then?

5 MS. WELLINGTON: No. It's been
6 produced.

7 MS. ROSE-SMITH: That's --

8 MR. MALONE: Could I have it marked as
9 an exhibit, please?

10 MS. ROSE-SMITH: And you asked me,
11 counsel, for a representation about whether or not
12 there was an agreement between Countrywide Home Loan
13 Servicing and Phelan, Hallinan and I will represent
14 to you that it is, although you can see for
15 yourself.

16 MR. MALONE: Okay. Could I have it
17 marked as an exhibit, please?

18 (Alvarado-13 Two page document with
19 parties to agreement and signature page
20 marked for identification.)

21 BY MR. MALONE:

22 Q Alvarado-13, could I ask you to take a
23 look at it, please? And just describe for us who
24 the parties are to that agreement.

25 A Do you want me to read the whole first

1 paragraph?

2 Q No, just who the parties are.

3 A Servicing agreement between Countrywide
4 Home Loans, Inc., also known as CHL, in quotation
5 marks, a New York Corporation, given the address,
6 Countrywide Home Loans Servicing in limited
7 partnership, given the address, also outlines
8 performance requirements, the firm -- on the first
9 page it doesn't list the firm.

10 Q I invite your attention to the very top
11 of the document. Does it mention the law firm is
12 also a party?

13 A Are we talking about --
14 attorney/trustee agreement for handling foreclosures
15 and bankruptcy.

16 Q Okay. Can I see the document, please?
17 There's a reference to your firm in the document.
18 Do you know to whom that reference applies, your
19 firm?

20 A I would assume it's the firm that
21 signed the last page. The second page.

22 Q Okay. And that's Federman and Phelan,
23 LLP, is that correct?

24 A I'd have to see it.

25 Q Here.

1 A Yes, sir.

2 Q And what is Federman and Phelan, LLP,
3 if you know?

4 MS. ROSE-SMITH: Objection.

5 THE WITNESS: I would believe it to be
6 the Phelan foreclosure firm that we hired.

7 BY MR. MALONE:

8 Q Next you were asked to testify about
9 contracts between your employer and MERSCORP, Inc.
10 To your knowledge are there such contracts?

11 A To my knowledge I don't know.

12 Q Did anyone in the company to your
13 knowledge attempt to find out whether there were any
14 contracts between your employer and MERSCORP?

15 A To my knowledge I do not know.

16 MR. MALONE: Counsel, to your knowledge
17 are there any documents that have been produced or
18 will be produced pursuant to the request in
19 paragraph eight?

20 MS. ROSE-SMITH: I don't know. She --
21 I realize that you're going through and asking about
22 documents, and so I'll just say for the record you
23 can ask her about what search she conducted.

24 But your request asked for testimony about
25 agreements between MERS and Countrywide Home Loan

1 Servicing. I believe that the witness can tell you
2 about what she understands of those agreements.

3 If you want to talk about what actual
4 documents should be produced, that's the stuff that
5 I keep saying we have objections to. Send a letter.

6 MR. MALONE: Okay.

7 BY MR. MALONE:

8 Q And do you know -- do you have any
9 knowledge whether your employer has a contract with
10 Mortgage Electronic Registration Systems, Inc.?

11 A That's what MERS abbreviated for, same
12 company. I do not know.

13 Q Are you familiar with the term a MOM
14 mortgage or MERS mortgage?

15 A Not specifically that term. I am -- I
16 understand MERS numbers and a MERS loan that's been
17 submitted in MERS and tracked through MERS, yes.

18 Q Okay. Does -- I think I asked earlier,
19 your company is a member of MERS?

20 A Yes, sir.

21 Q Okay. As a MERS member does it have --
22 to your knowledge does it have any responsibility to
23 MERS to track MERS's ownership interest when you, as
24 the servicer, are doing something respecting those
25 interests?

1 MS. ROSE-SMITH: Objection.

2 THE WITNESS: Can you explain? Break
3 that question down to me exactly.

4 BY MR. MALONE:

5 Q Sure. In this case there was an
6 assignment executed by the law firm, by an attorney
7 from the law firm, as a MERS officer assigning
8 MERS's interest to the plaintiff.

9 Do you, as the servicer, do anything with
10 regard to tracking that or seeing that it's being
11 done properly as a MERS member? Do you have any
12 responsibility to MERS to make sure that whatever
13 the law firm is doing, who you refer the work to, is
14 doing it consistent with whatever contractual
15 obligations you have to MERS?

16 MS. ROSE-SMITH: Objection.

17 THE WITNESS: I don't know specifically
18 what, if any, our obligations are to MERS. I can
19 tell you from my knowledge of the MERS system that
20 if any updates are done or any assignments are
21 actually done it's updated through the MERS
22 milestone report.

23 BY MR. MALONE:

24 Q And who puts the information in the
25 MERS milestone report? Who's responsible for that?

1 A Like I stated earlier, I don't know the
2 person, but we have a MERS group that does the
3 updating.

4 Q And are you -- are there any criteria
5 within your employer's organization regarding the
6 entry of information onto those MERS milestone
7 reports?

8 A I do not know.

9 Q Do you know if the MERS milestone
10 reports are at all accurate?

11 MS. ROSE-SMITH: Objection.

12 BY MR. MALONE:

13 Q If you know.

14 A Are they -- what do you mean by at all
15 accurate? That every entry is perfectly done?

16 Q Well, are they something you rely upon
17 in the course of your business day to make
18 decisions?

19 A Yes, sir.

20 Q Okay. And do you rely upon them to
21 accurately reflect who the beneficial owner is of a
22 mortgage loan?

23 A Who it's being assigned to. That's
24 what I know the MERS system to be, an assignment.

25 Q Okay. An assignment of what?

1 A Of the note.

2 Q Assignment of the note. And to your
3 knowledge does the MERS system accurately track the
4 assignment of the note generally?

5 A For the most part, yes.

6 Q And is the MERS system something you
7 would rely upon, the MERS milestone system, in
8 determining to whom a note was assigned?

9 MS. ROSE-SMITH: I think this is asked
10 and answered, but I will let her answer again.

11 THE WITNESS: Yes, sir.

12 MR. MALONE: Can I have this marked for
13 identification, please?

14 (Alvarado-14 MERS Milestone Report
15 marked for identification.)

16 BY MR. MALONE:

17 Q I show you what's been marked
18 Alvarado-14. It bears the Bate stamp number
19 CW-Ukpe-02512. At the top do you see Milestones?

20 A Yes, sir.

21 Q And is this, to your knowledge, a MERS
22 milestones report?

23 A A printout it of yes, sir.

24 Q And do you know what the entry
25 following the words Milestone's for? There's a

1 series of numbers, multi digit numbers. Do you know
2 what those numbers correspond to?

3 A Without looking at the loan file, no, I
4 do not.

5 Q Okay. It's been produced in connection
6 with this case by someone from Countrywide because
7 it bears the CW-Ukpe-02512 entry. Is Countrywide
8 Home Loans, Inc. a member of MERS, to your
9 knowledge?

10 A I believe we are.

11 Q Okay. Do employees of Countrywide Home
12 Loans, Inc. enter information onto the MERS system?

13 A Yes, they do.

14 Q Okay. And how about America's
15 Wholesale Lender, is that a member of the MERS
16 system?

17 MS. ROSE-SMITH: Objection.

18 THE WITNESS: I wouldn't know.

19 MS. ROSE-SMITH: I'll state for the
20 record that America's Wholesale Lender is a d/b/a
21 for Countrywide Home Loans, Inc.

22 MR. MALONE: And I will state for the
23 record that the mortgage document in this case
24 reflects it's a New York corporation. So I think
25 there's a --

1 MS. ROSE-SMITH: Actually, it
2 reflects -- yes, it is a New York corporation,
3 because Countrywide Home Loans, Inc. is a New York
4 corporation and America's Wholesale Lender is a
5 d/b/a for Countrywide Home Loans, Inc., as reflected
6 on the registration with the New Jersey Secretary of
7 Treasury, or whatever it was that I sent you the
8 document on.

9 MR. MALONE: Okay.

10 BY MR. MALONE:

11 Q Turning to this milestone report, you
12 see the entry under description, transfer beneficial
13 rights, option two?

14 A Yes, sir.

15 Q And does that reflect to you -- is it
16 your understanding that's a transfer of the interest
17 in the note?

18 A That's what I would assume it to be.

19 Q Okay. And there's a date of
20 September 23rd, 2005. Is that correct?

21 A That's the date that it states.

22 Q Okay. It and reflects an initiating
23 organization/user. Is that correct?

24 A Yes, sir.

25 Q And that organization is BAC Home Loan

1 Servicing, L.P.?

2 A Yes, sir.

3 Q And to whom is the -- according to this
4 document -- the beneficial interest in the note
5 transferred?

6 A Transferred from -- the investor number
7 changed from the Bank of New York Mellon. The old
8 investor was BAC Home Loan Servicing, L.P.,
9 transferred new servicer, the Bank of New York
10 Mellon, N.A.

11 Q And the number preceding the Bank of
12 New York Mellon, N.A. is the number 1000579. Do you
13 know what the number represents?

14 A Investor number.

15 Q And do you know who the investor is
16 that's associated with that investor number?

17 A I would have to assume from this
18 document it would be BAC Home Loan Servicing, L.P.

19 Q The new investor, the 579?

20 A That's the old investor.

21 Q I'm sorry, I thought I read the numbers
22 100579.

23 MS. ROSE-SMITH: He was talking about
24 that one.

25 THE WITNESS: Oh, I'm sorry. You're

1 talking about the new investor, the 000579? I'm
2 sorry, I was reading the one below it.

3 BY MR. MALONE:

4 Q Okay.

5 A New investor 1000579 shows the Bank of
6 New York Mellon, N.A.

7 Q And the old investor, prior to
8 September 23rd, 2005, was BAC Home Loan Servicing.
9 Is that correct?

10 A Yes, sir.

11 Q Do you know what interest BAC Home Loan
12 Servicing had in the Ukpe's note prior to
13 September 23rd, 2005?

14 A No. At this point I'd have to look at
15 the dates to see when the loan came to us and we
16 began servicing it.

17 Q The next item we wanted testimony on,
18 paragraph 11 of Alvarado Exhibit A-3, deals with
19 servicing agreements including master sub servicing
20 contingency specialty and backup servicing
21 pertaining to servicing Ukpe defendants' loan
22 account.

23 Other than what you have told us so far, are
24 you aware of any other kind of servicing that's
25 occurring with regard to the Ukpe loan account?

1 A Servicing, as in mortgage servicing, as
2 in escrow, as in collection?

3 Q Any of the above.

4 A Not that I'm aware of.

5 MS. ROSE-SMITH: Can we take a quick
6 break?

7 (Brief recess.)

8 BY MR. MALONE:

9 Q Okay. Let me go back to a document
10 that was marked for identification earlier today but
11 I did not ask you about. It's been marked as
12 Alvarado-7. It has the word redacted on it and in
13 the upper left-hand corner it says CWABS-2005-AB3,
14 mortgage loan schedule.

15 I show you that document. Have you seen it
16 before today?

17 A Yes, sir.

18 Q And can you tell us what you know about
19 it?

20 A When there's a pooling and servicing
21 agreement usually there's a scheduler that follows
22 it that lists all the loans that pertain to that
23 servicing and pooling agreement.

24 Q And you say usually. Do you know if
25 this is the loan schedule to a pooling and servicing

1 agreement?

2 A From my knowledge it corresponds with
3 the one that I've seen, except mine's fully
4 completed.

5 Q Okay. And the one you've seen, tell us
6 the circumstances under which you saw it.

7 A In preparation for the deposition
8 today.

9 Q Okay. And how did you access it?

10 A I asked our investor accounting
11 department for the pooling and servicing agreement
12 along with the executed version of the scheduler.

13 Q Okay. And how did you make that
14 request? Was there a particular loan number or
15 investor you asked?

16 A I have to provide the loan number, the
17 homeowner name and the investor number.

18 Q And the file you looked at, did it have
19 a caption on it?

20 A It's an Excel spreadsheet, so it had
21 like going across it does -- right here, it says the
22 exact same thing.

23 Q So if you went on the computer system
24 it would have the same image at the top that appears
25 on exhibit A-7?

1 A Yes, sir.

2 Q Okay. And do you have any independent
3 knowledge whether, in fact, is the mortgage loan
4 schedule identified in the pooling and servicing
5 agreement that's been identified as the relevant
6 pooling and servicing agreement for our case?

7 MS. ROSE-SMITH: Objection. If you
8 want to give it to her she can confirm.

9 THE WITNESS: Yeah, I would have to
10 look at the one that I have to specifically make
11 sure that it's line by line.

12 But my understanding is it was the same
13 investor number and the same information. Sixty-six
14 was the same line of the loan.

15 BY MR. MALONE:

16 Q My question is the one you looked at on
17 your computer system, without being redacted, do you
18 have any independent knowledge whether that is a
19 loan schedule that was part of the PSA on the
20 closing date of the loan, September 27, 2005?

21 MS. ROSE-SMITH: Objection.

22 THE WITNESS: It was what was provided
23 to me when I requested it and gave this information.

24 BY MR. MALONE:

25 Q I understand it was provided to you.

1 Do you know who created it?

2 A No, I do not.

3 Q Do you know when it was created?

4 A No, I do not.

5 Q Do you know who it was created by?

6 Someone from Countrywide or someone outside of

7 Countrywide?

8 A No, I do not.

9 Q Do you know how it was maintained in
10 your own system?

11 A It's maintained in the investor
12 accounting. How do I explain it? It's a server
13 that only they can go onto and get the information
14 from.

15 Q Um-hmm. And where did they get the
16 information initially? Had someone provided it to
17 them or did someone within investor accounting
18 assemble that chart?

19 A I do not know.

20 MR. MALONE: Could I have this document
21 marked as our next exhibit number?

22 (Alvarado-15 Letter dated 2-13-09 to
23 Abigail Sullivan from Dashika Wellington with
24 attachment marked for identification.)

25 BY MR. MALONE:

1 Q I show you what's been marked as A-15.
2 It's a letter from Dashika Wellington to Abigail
3 Sullivan dated February 13th, 2009.

4 I invite your attention to the second page of
5 that document and ask you to compare the caption
6 headings on A-7, which you represent is a redacted
7 copy of the screen you looked at, and the headings
8 on A-15 that I've just shown you and ask you if
9 there is any difference in the headings that appear
10 on A-15 up to the point where it's cut off.

11 A Up until the point it's cut off they
12 all match.

13 Q And in terms of the data that appears
14 on line 66 of A-7 and the data that appears below
15 the caption headings on A-15, is there any
16 difference between that data and the information
17 that's captured up to the point of cut-off?

18 A There's two places where I can't
19 identify what the numbers are. Where it shows first
20 payment date I can't distinguish if that's a one, a
21 nine or 11 dash 2005. Do you see what I'm talking
22 about? On Alvarado-7 I can distinguish a clear copy
23 of 9-1-2005. On the other copy I cannot.

24 Q Okay.

25 A And then over by the next rate reset

1 date I can't distinguish that date either.

2 Next to it the maximum rate I can't identify
3 if that's 14.0 or 975, but it reflects clearly on
4 the second one 14.975. That's the only differences.
5 But I just can't distinguish it because the copy
6 isn't clear.

7 Q Um-hmm. Okay.

8 MS. ROSE-SMITH: Counsel, I just got a
9 note that her flight's been delayed until eight.

10 (Discussion off the record.)

11 BY MR. MALONE:

12 Q Next inviting your attention to
13 paragraph 14 of the letter to Mr. Oetheimer it
14 requested information about the assignment of the
15 Ukpe defendants' mortgage into the trust represented
16 by the pooling and servicing agreement.

17 In your experience, if you know, when a
18 mortgage goes into a trust is it assigned into the
19 trust? If you know.

20 A I don't know. My assumption, that's
21 the purpose of MERS, so there's not a paper
22 assignment.

23 Q Is there some kind of electronic
24 assignment then?

25 A MERS is updated with that information.

1 Q And who updates MERS with that
2 information? Is that someone from Countrywide Home
3 Loan Servicing or someone --

4 A As far as I know.

5 Q Is there anything in the milestones
6 report that I showed you earlier today reflecting
7 that the milestone report was updated to reflect the
8 transfer of the mortgage into the plaintiff trust in
9 this case?

10 A Identifying that specific trust?

11 Q Um-hmm.

12 A The milestone report doesn't reflect
13 that specific trust. Unless it's tied into this new
14 investor 1000579.

15 Q Okay. And do you know if there is a
16 connection between that investor number and the
17 trust that's the plaintiff in this case?

18 A Without having the information in front
19 of me, no, I do not.

20 Q Okay. We're going to ask you to
21 produce that investor number information for us to
22 see if there is a connection between the plaintiff
23 in this case and that investor.

24 MS. ROSE-SMITH: Counsel, I don't know
25 what it is that you're asking us to produce.

1 MR. MALONE: We'll put it in a letter.

2 BY MR. MALONE:

3 Q Now, are you aware that the actual
4 lawsuit in this case started with a document -- the
5 filing of the lawsuit in this case referenced an
6 assignment of the Ukpes' mortgage?

7 A Yes, sir.

8 Q Are you aware that there's been a
9 document executed by someone, by a MERS officer
10 named Francis Hallinan as assistant secretary and
11 vice president, assigning the mortgage together with
12 the bond and the note from MERS to the plaintiff in
13 this case?

14 A Can I see what you're referring to?

15 Q Sure.

16 MR. MALONE: Could I have this document
17 marked as our next exhibit?

18 (Alvarado-16 Assignment of Mortgage
19 marked for identification.)

20 BY MR. MALONE:

21 Q I show you Alvarado-16. Have you seen
22 it before today?

23 A Yes, sir.

24 Q And in what context did you see it?

25 A In the loan file in preparation for the

1 deposition.

2 Q And can you tell us if you know how
3 this assignment, A-16, got into the loan file?

4 A This assignment was not completed by
5 Countrywide, it was completed by the foreclosure
6 counsel.

7 Q Yes, I understand. I'm just asking; do
8 you know how it got into the loan file? You say you
9 saw it in the loan file.

10 A We usually have copies on the system,
11 on our imaging system.

12 Q Okay. And how do they get to the
13 system? Does the law firm upload them to the
14 system? If you know.

15 A It could be uploaded into the system
16 many ways. If we received it via fax,
17 correspondence, individually issued it can be
18 uploaded.

19 As far as I know the foreclosure firm does not
20 have the ability to image anything in our systems.

21 Q And once documents such as the
22 assignment of mortgage is imaged on your system is
23 it then shared with MERS?

24 A I do not know.

25 Q Is there any business practice, as far

1 as you know, where MERS's interest is assigned that
2 you notify MERS if that has occurred?

3 MS. ROSE-SMITH: Objection. You asked
4 that already.

5 THE WITNESS: I believe that's what the
6 milestone report indicates. I do not know for sure.

7 BY MR. MALONE:

8 Q And turning to the milestone report
9 again, do you see anything on the milestone report
10 reflecting the assignment of mortgage dated
11 March 14th, 2008?

12 A No. I think I confused myself.
13 Because when an assignment is done on paper it's
14 recorded. MERS is when it's not recorded. It's
15 placed in there when it's moved around through
16 different trustees and it's not recorded. That's
17 the purpose of electronic systems for MERS. The
18 paper copy that I'm looking at in front of me was
19 recorded.

20 Q It is a paper copy, yes, Alvarado-7,
21 but it's assigning MERS's interest. So if I
22 understand you, because it's a paper copy a
23 milestone entry is not made?

24 A I'm not sure if it has to be made.

25 MR. MALONE: Could I have this marked

1 as an exhibit, please?

2 (Alvarado-17 Letter dated 3-12-09 to
3 Abigail Sullivan from Jonathan Moore with
4 first four pages of QWR marked for
5 identification.)

6 BY MR. MALONE:

7 Q I only have -- I don't have an extra
8 copy of this. This is from the Dilworth Paxson QWR
9 report dated March 12, 2009.

10 I show you what's been marked Alvarado-17.
11 Let me have a complete set marked 18.

12 (Alvarado-18 Complete QWR marked for
13 identification.)

14 BY MR. MALONE:

15 Q And I will show you also -- A-17 is the
16 first four pages of the QWR; A-18 is the entire QWR
17 that we've had marked Bate stamped QWR-1 through
18 QWR-38.

19 And on the second page of the QWR, either
20 Exhibit A-18 or A-17, I invite your attention to
21 paragraph eight.

22 A Yes, sir.

23 Q There's a reference to a number of
24 costs there that in the paragraph reflects that
25 certain fees are not reflected yet in the payment

1 history, and then it lists and number of them in the
2 last three lines.

3 Do you see that?

4 A Yes, sir.

5 Q Okay. Those fees, there's a reference
6 to server fees of \$460. Can you correlate that
7 reference to server fees of \$460 from this letter of
8 March 12th, 2009 with the AS400 data? That's
9 Exhibit Alvarado-4.

10 A Where did you get that number, process
11 server fees of \$460?

12 Q From Exhibit Alvarado-17 or 18, the
13 second page, paragraph eight, the third line from
14 the bottom beginning; process server fees of \$460.

15 Do you see the entry --

16 A I see where it's on there, yes, sir.

17 Q -- on the QWR?

18 A I do not see where that fee \$460 is on
19 the AS400.

20 Q And, by the way, are you familiar with
21 the firm Dilworth Paxson?

22 A No.

23 Q Okay. In the letter to Miss Sullivan
24 an attorney from that firm says the firm represents
25 Countrywide Home Loans with regard to the above

1 loan, and it references the Ukpe loan.

2 Do you see that on the cover page of the
3 letter?

4 A Yes, sir.

5 MS. ROSE-SMITH: I'll just note that
6 Countrywide Home Loans is not Miss Alvarado's
7 employer.

8 MR. MALONE: True.

9 BY MR. MALONE:

10 Q Where, to your knowledge, would Mr. --
11 the author of this letter, his name is Jonathan
12 Moore -- to your knowledge where would he go to get
13 information about what the Ukpes owe? Where does
14 one get a payment history? Do they go to
15 Countrywide Home Loans, Inc. or Countrywide Home
16 Loan Servicing?

17 A Any fees that are associated with the
18 loan would be the fees due, not in the payment
19 history.

20 The payment history would only reflect
21 payments that the homeowner made or anyone has made
22 directly on the loan or any payments that we made
23 out in escrow for insurance and taxes or PMI or MI
24 insurance.

25 Q Okay. And in terms of the fees that

1 are listed in paragraph eight of the exhibit, where
2 would Mr. Moore go to get that information, if you
3 know? Can he get the information from Countrywide
4 Home Loan, Inc. or would he get that information
5 from Countrywide Home Loan Servicing?

6 A It would be Servicing. I'm not sure
7 where he got them specifically. In the AS400 system
8 the fees due would be in there.

9 Q And the last two lines of the entry it
10 mentions attorney trustee foreclosure fees of \$910.
11 Do you see the entry on his letter?

12 A Yes, sir.

13 Q And do you have any -- can you
14 correspond that figure, \$910, with anything on the
15 AS400 system?

16 A I don't know if he accumulated those
17 fees and added all the fees due. There's not one
18 LandSafe specific line that indicates that amount.

19 Q And again on the bottom line there's a
20 reference to title fees of \$175. Do you see that?

21 A Yes, sir.

22 Q And on the AS400 is there any
23 information reflecting title fees of \$175 as of
24 March 12, 2009?

25 A Yes, sir, on line -- on CW-Ukpe-01009,

1 more than halfway through the page is listed at
2 one -- transaction code 10067, 4-15-08, title fees
3 175. I would only assume that that's what he's
4 referencing.

5 Q And the title fees on that line, \$175,
6 do you know what they correspond to earlier? You
7 told us there was a \$300 title fee entry that
8 related to LandSafe. Correct?

9 A Yes, sir.

10 Q And this title fee is tied into a law
11 firm bill, is that correct?

12 A Yes, sir.

13 Q \$175?

14 A Yes, sir.

15 Q And do you know what title work the law
16 firm had to do in addition to whatever LandSafe did?

17 A It looks like it was a tax bring-down
18 along with a property search.

19 Q And can you tell us what about the
20 entry -- are you looking at the invoice itself?

21 A Yes, sir.

22 Q And that's exhibit?

23 A Eight, Alvarado-8. Page two of 14.

24 Q And do you know if that -- if the work
25 was done by the law firm? Do you have any

1 independent knowledge?

2 MS. ROSE-SMITH: Objection.

3 BY THE WITNESS:

4 Q If you know.

5 A I don't know.

6 Q Do you know who did the work, if it was
7 done?

8 MS. ROSE-SMITH: Objection.

9 THE WITNESS: I do not know.

10 MR. MALONE: Could I have this document
11 marked for identification, please?

12 (Alvarado-19 Fees Due Transaction
13 Codes marked for identification.)

14 BY MR. MALONE:

15 Q I show you what's been marked as
16 Alvarado-19. This is something produced recently by
17 your counsel. It's Bate stamped CW-Ukpe-02703
18 through CW-Ukpe-02710.

19 Are you familiar with the document?

20 A Yes, sir, I am.

21 Q And would you explain to us what it is?

22 A These are the listing of transaction
23 codes that you will find on the fees due that
24 identified each and every transaction that's applied
25 to the account. It's provided to the foreclosure

1 unit along with the litigation groups to understand
2 the fees due.

3 Q Is a copy of these transaction codes
4 also provided to the law firm?

5 A That I do not know.

6 Q Okay. Do you know if your law firm
7 vendors routinely use these codes?

8 A I believe these are the codes on the
9 New Invoice system and that's the way they
10 correspond. So if we go --

11 Q I'm sorry?

12 A No, I was trying to look for something.

13 Q The footer at the bottom of the page of
14 the exhibit, do you recognize that footer,
15 C-H-L-W-E-B?

16 A Yes, sir.

17 Q And tell us what that is, please.

18 A That's the link to the website that
19 we -- I downloaded this information and provided to
20 counsel.

21 Q It has a date in the right-hand corner
22 of three slash 29 slash 2007. Does that date have
23 anything to do with the footer?

24 A No.

25 Q Does the name -- the company name

1 Search Check, Inc. mean anything to you?

2 A I was asked to see if that was one of
3 our vendors.

4 Q Okay. And?

5 A No, it was not.

6 Q Do you know if they've done any work in
7 the case for any of your other vendors?

8 A I do not know.

9 Q Under the terms of your agreement if
10 the law firm hires a vendor to do a service at a
11 certain cost and the vendor charges say
12 hypothetically a hundred dollars, is the law firm
13 entitled to mark up that cost when it bills you?

14 MS. ROSE-SMITH: Objection. I think
15 the judge said the terms of that agreement are
16 privileged; so too would testimony about the
17 agreement be privileged.

18 BY MR. MALONE:

19 Q Please answer the question.

20 MS. ROSE-SMITH: No, don't answer the
21 question. I'm specifically instructing her not to
22 answer because Judge Todd has already placed the
23 term of that agreement off --

24 MR. MALONE: I'm not asking about the
25 term of the agreement, I'm just asking about her

1 knowledge.

2 MS. WELLINGTON: You said, under the
3 terms of the agreement.

4 MS. ROSE-SMITH: Six on one hand, half
5 a dozen on the other.

6 MR. MALONE: Let me rephrase the
7 question.

8 BY MR. MALONE:

9 Q Generally vendors, law firms doing work
10 for Countrywide Home Loans, if they subcontract to
11 have someone do something at a cost and they are
12 charged a cost, say a hundred dollars, are the law
13 firms permitted under -- are the law firms
14 permitted -- can the law firms mark up the charge?

15 MS. ROSE-SMITH: Objection. In the
16 same way that the Phelan agreement is privileged so
17 would all of the other agreements between
18 Countrywide and its foreclosure counsel also be
19 privileged. I hope you don't want Judge Todd to
20 look at every single one.

21 MR. MALONE: Well, I do want -- we're
22 going to revisit this issue with Judge Todd because
23 if there are mark-ups I don't think that's
24 privileged; just the opposite.

25 BY MR. MALONE:

1 Q To your knowledge, aside from anything
2 to do with agreements, privileged or otherwise, do
3 you know if law firms routinely mark up costs that
4 they incur when they submit their bills to you?

5 MS. ROSE-SMITH: Objection.

6 BY MR. MALONE:

7 Q Yes or no?

8 A You're asking me if -- can you rephrase
9 it? Because I want to understand it right. You're
10 telling me that if a law firm gives us a bill that's
11 inflated and not the true amount? Is that what
12 you're asking?

13 Q I'm asking you --

14 A Have I ever --

15 Q -- if a law firm has a cost of a
16 hundred dollars for someone serving process and they
17 bill you \$300 for it; in other words, they're
18 earning \$200 not doing anything additional, just
19 adding to that cost, do you know if they do that,
20 law firms do that?

21 MS. ROSE-SMITH: Objection. You can
22 answer if you know.

23 THE WITNESS: I'm still trying to
24 understand. From my knowledge as working with the
25 company, or have I read that firms have done that or

1 I've looked online and shown where firms have done
2 that or have I had experience with firms that have
3 done that or if I had loans?

4 I'm trying to --

5 Q Yes.

6 A Because I look on the internet, I read
7 the internet and there's all sorts of information on
8 there. I have not had any experience with a firm
9 marking up or falsifying any invoices, to my
10 knowledge.

11 Q Um-hmm.

12 MS. ROSE-SMITH: I'm not going to allow
13 her to testify about everything she ever read on the
14 internet or speculate.

15 MR. MALONE: Okay.

16 BY MR. MALONE:

17 Q What you've read on the internet
18 indicates that some firms do mark up, correct?

19 MS. ROSE-SMITH: Objection. That's not
20 what she said.

21 MR. MALONE: All right.

22 BY MR. MALONE:

23 Q What have you read on the internet
24 about firms marking stuff up?

25 MS. ROSE-SMITH: Objection. I just

1 said I wasn't going to let her testify about that.
2 It's beyond the scope of what you asked, it doesn't
3 have anything to do with Phelan, Hallinan and
4 Schmieg or Countrywide Home --

5 MR. MALONE: I'm going to connect it in
6 a moment, counsel.

7 MS. ROSE-SMITH: Well, why don't you
8 get there first? She's not answering it until you
9 get there.

10 MR. MALONE: You're directing her not
11 to answer? Okay.

12 BY MR. MALONE:

13 Q After you read information about what
14 the law firms were doing, do you know if your
15 employer does anything to protect itself and its
16 investors from the practices of the conduct of law
17 firms you've read about on the internet?

18 MS. ROSE-SMITH: Objection,
19 mischaracterizes her testimony. She can answer if
20 she knows.

21 THE WITNESS: There's got to be some
22 Q-C on it in place. I don't know of one, but I know
23 there's attorney report cards and such that rates
24 them on timeliness, that rates them on information,
25 that rates them on billing, yes.

1 BY MR. MALONE:

2 Q Who maintains that attorney report
3 card?

4 A I do not know.

5 Q Who prepares it?

6 A I do not know.

7 Q Is it issued by your employer?

8 A That I do not know.

9 Q Is it issued by someone other than your
10 employer?

11 A I don't know how it's maintained or how
12 it comes into play. I've never actually seen one, I
13 have only heard of it.

14 Q What have you heard about the report
15 cards?

16 A What about -- I just told you the
17 information I knew on the report cards.

18 Q That is all --

19 A That's all --

20 Q -- you heard?

21 A -- all I know.

22 Q Do you know if people who have good
23 report cards get a reward?

24 MS. ROSE-SMITH: Objection.

25 THE WITNESS: I do not know anything

1 regarding that.

2 BY MR. MALONE:

3 Q Have you heard anything along the lines
4 of; the best performing attorneys get a reward, a
5 bonus, a cash bonus --

6 MS. ROSE-SMITH: Objection --

7 BY MR. MALONE:

8 Q -- for a high score on their report
9 card?

10 MS. ROSE-SMITH: Beyond the scope of
11 the deposition.

12 THE WITNESS: No, sir.

13 BY MR. MALONE:

14 Q Thank you. In the course of dealing
15 with the Phelan, Hallinan and Schmieg law firm over
16 the years have you had any personal interaction with
17 anyone from the firm; lawyers, paralegals, anyone
18 else?

19 A Honestly I deal with so many firms, the
20 firm name is familiar to me but I have to go through
21 my documentation, my e-mail to know who I deal with
22 directly.

23 Q In the course of your dealings or your
24 company's dealings with Phelan, Hallinan and Schmieg
25 over the years do you know -- have you learned

1 anything about any relationship the firm has with
2 respect to their billings to you with the business
3 known as Full Spectrum Legal Services, Inc.?

4 A I've seen that name somewhere, I just
5 can't tell you where.

6 Q And a similar question; do you know
7 anything about any connection between the Phalen
8 firm and Full Spectrum Services, Inc.?

9 A Oh, now I know where I've seen that.
10 Those -- there were different entities, different
11 companies that were requested of me to ask if they
12 were vendors in New Invoice. That's why they sound
13 familiar to me.

14 And, no, they were not, so I do not know what
15 the relationship is between them.

16 Q Okay. And other than establishing they
17 weren't on New Invoice, you have no independent
18 knowledge of any relationship with the law firm?

19 A No, sir.

20 Q Similarly, do you know if there's any
21 connection, based on your experience, between the
22 law firm and an entity known as Full Spectrum
23 Acquisitions, LLC?

24 A No, I do not.

25 Q In terms of billing practices, if --

1 hypothetically if a law firm asked an outside vendor
2 to do some title work and hypothetically the outside
3 law firm -- the outside firm subcontracted the job
4 to still another firm and the firm that actually did
5 the work billed \$35 and passed it on to the firm
6 that sent it out to them, the firm that sent it out
7 to them then billed the law firm \$75 and the law
8 firm then billed you \$350, would that be a violation
9 of your agreement with the law firm?

10 MS. ROSE-SMITH: Objection. You went
11 from a hypothetical, which I was going to let you
12 run with, to; would that be a violation of the
13 agreement? Which means you have her referring back
14 to a specific one. I'm not going to let you go
15 there.

16 BY MR. MALONE:

17 Q Hypothetically what would be your
18 reaction to that if you came across it?

19 MS. ROSE-SMITH: I'm going to make an
20 objection. Are you asking her hypothetically if
21 what you just said happened what would be her
22 reaction to it?

23 MR. MALONE: Yes.

24 MS. ROSE-SMITH: She can answer if she
25 knows. I'm going to object to the form and anything

1 else I can think of when it's time to argue
2 objections.

3 THE WITNESS: If I don't have any
4 knowledge of what the amount is I wouldn't know if
5 it was an improper billing or not.

6 BY MR. MALONE:

7 Q But if someone notified you; hey, the
8 initial charge was \$35 for the work and you're
9 getting billed \$350 for it, what would your reaction
10 be?

11 A Might be the cost of business. Because
12 I know when I go to a mechanic he charges me more
13 than he charges -- he charges me fees, not just a
14 flat fee, and if he has to get information or have
15 somebody else do the work I'm charged that fee.

16 So I don't know what those fees would be. But
17 they're common in the course of business. I know I
18 have to pay the end result, which is what I'm being
19 billed for.

20 MR. MALONE: We're going to take about
21 a ten minute break.

22 (Brief recess.)

23 BY MR. MALONE:

24 Q In paragraph 42 of the letter from Miss
25 Sullivan to Mr. Oetheimer, Alvarado-3, Alvarado

1 Exhibit 3, we asked that someone be produced who
2 could testify as to Countrywide Home Loans' policies
3 and procedures about a classification of any
4 advances for fees and costs, non recoverable.

5 Can you tell us what you know about your
6 employer's policies and procedures concerning
7 classification of fees and costs as non recoverable?

8 A There is a finance group that has -- I
9 guess you would called it a spreadsheet that's been
10 compiled from our attorneys and other finance
11 department that puts all the criteria that's per
12 state statute; what is collectible and passed
13 through to the borrower and what is not.

14 Q And have you seen that sheet before
15 today?

16 A Yes, sir.

17 Q Did you see it in preparation for your
18 appearance today?

19 A No, sir. Wait. I'm sorry. I reviewed
20 it again in preparation for today but I've seen it
21 when I saw the foreclosure years ago.

22 Q We'd ask that a copy of that document
23 that you reviewed in preparing for today's testimony
24 be produced.

25 MR. MALONE: And I'll put it in a

1 letter.

2 MS. ROSE-SMITH: I actually should tell
3 you now that I asked her for a copy of that so I can
4 Bate label it and put it on the privilege log.

5 MR. MALONE: Okay. And I take it you
6 haven't gotten there yet, because we haven't gotten
7 a privilege log.

8 MS. ROSE-SMITH: No. So far the only
9 document that's been responsive that we've had that
10 would be responsive but is privileged is that
11 document that I saw, and so she's going to send to
12 me and I'm going to put it on the --

13 MR. MALONE: Okay.

14 MS. ROSE-SMITH: I'm going to assign a
15 Bate label to it and put it on the privilege log
16 with a description and why we think that it's
17 privileged.

18 MR. MALONE: Okay.

19 BY MR. MALONE:

20 Q After a foreclosure matter is
21 completed, in your experience involving the Phalen,
22 Hallinan and Schmieg firm, have they ever sent any
23 money back to you for something they billed for in
24 the course of a foreclosure?

25 A Are you asking me loans that I

1 personally have looked at or loans throughout the
2 company that many people have touched?

3 Q Let me take it two ways. In terms of
4 your personal knowledge of dealing with loans over
5 the past nine years involving the Phelan, Hallinan
6 and Schmieg firm that went through completion to
7 foreclosure, a judicial order of sale, a sale,
8 whatever that entails, has the firm, to your
9 knowledge, ever sent money back for something it
10 billed for previously?

11 MS. ROSE-SMITH: Objection three ways;
12 form, out of the scope of what she's to be
13 testifying about and asking for her personal
14 knowledge when she's here as a corporate witness.

15 BY MR. MALONE:

16 Q Please answer the question.

17 A In the four -- in the five years that
18 I've been doing foreclosures and I've been dealing
19 with the foreclosure firm, which I've come across
20 their firm before, no, I do not know of any case I
21 have personally touched that I have gotten any
22 refunds back on.

23 Q In addition to your own experience, do
24 you have any knowledge of any other personnel within
25 your company who have any knowledge of Phelan,

1 Hallinan and Schmieg sending money back at the end
2 of a foreclosure?

3 MS. ROSE-SMITH: Objection.

4 THE WITNESS: Not from my experience.
5 Personal experience.

6 BY MR. MALONE:

7 Q Okay. And if money were sent back
8 after a foreclosure was finished, sent back by the
9 law firm, how would that be handled by your
10 employer?

11 A It would be listed on the fees due as a
12 credit to the account.

13 Q Even though the foreclosure had been
14 completed?

15 A That's correct.

16 Q Okay. And if you wanted to go back
17 into the system and check for credits that the firm
18 got after a foreclosure had been completed how would
19 you go about doing that? Is there a code you would
20 put in, say, show me all credits for refunds, or is
21 there -- what would the query be?

22 A I'm trying to understand the question.
23 If I went into the fees due on a specific loan to
24 see what the credits would be? Is that what you're
25 asking?

1 Q No, no, I'm asking generally. So say
2 your boss said, please go back in and see if this
3 firm in the last ten years ever sent any money back
4 after a foreclosure was completed, how would you go
5 about doing that?

6 MS. ROSE-SMITH: Objection.

7 THE WITNESS: I don't know what queries
8 the New Invoice system would allow you to do.

9 BY MR. MALONE:

10 Q And other than the New Invoice system,
11 is there any other way you could think of to
12 determine whether the law firm ever sent any money
13 back?

14 A If it was specific to a law firm, no.
15 If it was specific to a loan, yes.

16 Q And if it was specific to a loan how
17 would you go about checking on that?

18 A That would go in fees due you and query
19 credits.

20 Q Okay. Now, in this case as the master
21 servicer does Countrywide act as the intermediary
22 for flows of money? As the servicer is it
23 responsible for seeing that money is disbursed in
24 the course of the securitization and seeing that
25 moneys come in and are disbursed appropriately?

1 MS. ROSE-SMITH: Objection. I think
2 that way you're asking is beyond the scope of the
3 deposition. But I don't really understand the
4 question.

5 So try -- do your best.

6 THE WITNESS: I'm trying to understand
7 it myself. You put securitized in there. I don't
8 know what this has to do with the specifics of our
9 mortgage servicing where we have payments being
10 made, payments being issued out. All of that -- I
11 don't know what that has to do with this
12 securitization. That's confusing me.

13 BY MR. MALONE:

14 Q Okay. Well, Ukpe sent monthly checks.
15 Prior to the alleged default they were making
16 monthly payments, correct?

17 A Yes, sir.

18 Q And that check goes into the servicer,
19 correct?

20 A Yes, sir.

21 Q And the servicer gets a small fee of
22 that check, is that correct, to your knowledge?

23 MS. ROSE-SMITH: Objection.

24 THE WITNESS: I have no idea.

25 BY MR. MALONE:

1 Q No idea. Do you know what the servicer
2 does with the monthly check from the Ukpes when it
3 gets it?

4 A It's applied directly to the account to
5 principal and interest and escrow PMI.

6 Q And -- okay. And then do you keep the
7 money yourself or does it get disbursed to someone?

8 A Are you asking if the funds are made to
9 my company and my company deposits into their bank
10 account?

11 Q Well, I'm asking what happens -- yeah,
12 let's do it that way. A monthly check, is it made
13 payable to Countrywide Home Loans Servicing?

14 A Yes, sir.

15 Q Okay. And is it deposited into your
16 employer's account when it comes in?

17 A As far as I know, yes, sir.

18 Q And does your employer keep that money
19 or does your employer pass most of the money on to
20 someone?

21 MS. ROSE-SMITH: Objection.

22 THE WITNESS: I don't know.

23 BY MR. MALONE:

24 Q Okay. And in the case of the Ukpes'
25 money, do you have any idea -- well, you don't know

1 whether they keep it or pass it on?

2 MS. ROSE-SMITH: Who do you mean by
3 they? Her employer, --

4 MR. MALONE: Her employer.

5 MS. ROSE-SMITH: -- Countrywide Home
6 Loan Servicing?

7 MR. MALONE: Yeah.

8 THE WITNESS: From my understanding the
9 money is held in our account and we disburse it as
10 needed. I don't know.

11 BY MR. MALONE:

12 Q And you deal with default and
13 bankruptcy, is that correct?

14 A Yes, sir.

15 Q Okay. So are you describing what
16 happens -- well, once a default happens a
17 homeowner's not sending in checks, are they?

18 A No.

19 Q Okay. So prior to the default when the
20 homeowner's sending in a check, to your knowledge
21 does your company just hold onto the money and use
22 it as needed?

23 MS. ROSE-SMITH: Objection.

24 THE WITNESS: From working -- that's
25 the way I've seen it; money's received, placed into

1 a Bank of America account or a Countrywide account,
2 gained loss receivable.

3 MR. MALONE: I don't have anything
4 else. Thank you very much.

5 MS. ROSE-SMITH: I have a few things.

6 BY MS. ROSE-SMITH:

7 Q Earlier today you were talking about
8 LandSafe invoices. How does LandSafe invoice
9 Countrywide Home Loan Servicing?

10 A I believe it's on their system, it
11 comes from LandSafe onto -- from what I was told
12 when I asked this question, it was all -- everything
13 is done through LandSafe's system which auto docs
14 into the fees due.

15 Q So have you ever seen, in all the time
16 that you worked with them, Countrywide Home Loan
17 Servicing, a paper LandSafe invoice?

18 A No, ma'am.

19 Q Have you seen an electronic LandSafe
20 invoice?

21 A I have seen what's documented on AS400
22 only.

23 Q So in addition to not seeing paper
24 invoices you also haven't seen electronic invoices
25 for LandSafe?

1 A I don't have access to LandSafe's
2 system.

3 Q This document that is Alvarado-4, what
4 is it?

5 A It's a collection of AS400
6 documentation, everything that's on our AS400
7 system; all communications, correspondence, credits,
8 debits, loan history. All that's compiled up until
9 the time you pull this report.

10 Q Is there any information, looking at
11 Alvarado-4, that you are aware of that's in the
12 AS400 system which isn't reflected in this document?

13 A Up until the date that this was pulled,
14 no.

15 Q Alvarado-5. Is this a document that
16 Countrywide generates for the foreclosure counsel to
17 pull down or something that is compiled into a
18 report for the foreclosure counsel to pull?

19 A When I asked to describe -- this is not
20 something that we have on our system, it's
21 information compiled from the AS400 when they pull
22 their report. It's not a Countrywide document.

23 Q So there is no Countrywide Home Loan
24 Servicing document that would say Referral Account
25 Detail Report that we could produce in this case, is

1 that right?

2 A Not that I'm aware of.

3 Q Now, to your knowledge does the pooling
4 and servicing that has been discussed today happen
5 with Countrywide Home Loans or Countrywide Home Loan
6 Servicing?

7 A Countrywide Home Loans.

8 Q And so that information is not
9 information that you, as an employee of Countrywide
10 Home Loan Servicing, has?

11 A Correct.

12 Q Now, did you actually -- or does
13 Countrywide actually get paper invoices from Phelan,
14 Hallinan and Schmiege?

15 A No, ma'am.

16 Q So these documents, this collection of
17 documents which are Alvarado-8, are not actual paper
18 invoices received from Phelan, they're a collection
19 of electronic information that you pulled down for
20 me when we met the other day, is that right?

21 MR. MALONE: Counsel, up to a point I
22 allowed you to lead, but you're really going way,
23 way beyond. Stop leading, please.

24 MS. ROSE-SMITH: I'm actually -- I'm
25 not doing the direct in this case, you are. You

1 don't get to lead, I do.

2 MR. MALONE: I get to lead because --

3 MS. ROSE-SMITH: Actually I believe the
4 rules that you referred me to today, I actually took
5 a look at them beforehand, and I think they say that
6 at a deposition it should proceeded as trial. This
7 would be your witness, you have to direct her, I get
8 to cross her.

9 BY MS. ROSE-SMITH:

10 Q Alvarado-9, this is not a document that
11 Countrywide generated, is it?

12 A No, ma'am.

13 Q Do you know how Phelan, Hallinan and
14 Schmieg generated this document?

15 A No, ma'am.

16 Q This LandSafe Title Report, do you know
17 whether or not this particular one, as opposed to
18 any one at all, is in the origination file that's in
19 Countrywide's imaging system?

20 A No, I do not.

21 Q Alvarado-12, the specialty lending
22 stacking checklist, do you have a copy of something
23 within Countrywide that purports to be the specialty
24 lending stacking list -- stacking checklist file?

25 A No, ma'am, I've never seen one.

1 Q So earlier today when you were
2 referencing documents that are checked on this list,
3 where would those be contained within Countrywide
4 Home Loans?

5 A In our imaging system that's provided
6 with the origination packet.

7 Q Alvarado-14. Did you create this
8 document?

9 A No, ma'am.

10 Q Did Countrywide Home Loan Servicing
11 create this document?

12 A No, ma'am.

13 Q Now, Alvarado-15 is a letter and on the
14 first page of the letter it says; I have recently
15 been informed that this document was actually not a
16 schedule that was part of the PSA but was created
17 later.

18 Do you see that?

19 A Yes, ma'am.

20 Q Do you have any idea what that means?

21 A If I interpret it, that was not the
22 actual schedule at the time the pooling and
23 servicing agreement was created, it was done -- all
24 compiled and created at a later time and date.

25 Q And that's your interpretation of what

1 the letter says?

2 A Yes, ma'am.

3 Q Was the letter sent to you?

4 A No, ma'am.

5 Q Was this letter -- have you talked to
6 Dashika Wellington, who sent it, about what that
7 actually means?

8 A No, ma'am.

9 Q And so what you just said was what you
10 interpret that to mean, is that right?

11 A Yes, ma'am.

12 Q Alvarado-16 is an assignment of
13 mortgage. Who creates this document?

14 A Foreclosure counsel, Phelan's office.

15 Q And at what point in the process do you
16 see this assignment, if at all?

17 A I'm not aware that we see that
18 assignment at all because we did not execute it. We
19 might have it in the image file if it's returned to
20 us via correspondence or if it's issued from counsel
21 given to the specialist to image in the system.

22 Q And do you know if this would be
23 something that Countrywide Home Loan Servicing would
24 be involved with or Countrywide Home Loans, Inc.?

25 A Inc., not Servicing.

1 MS. ROSE-SMITH: That's it.

2 MR. MALONE: Could I have the
3 documents, please?

4 BY MR. MALONE:

5 Q You were asked a moment ago by your
6 counsel about Alvarado-12, the specialty lending
7 stacking checklist document and images associated
8 with it.

9 In regard to paragraph three of Alvarado
10 Exhibit 3, which asked for the corporate
11 representative to testify about the contents of the
12 specialty lending stacking checklist file and how
13 the file was assembled and maintained and who had
14 access to it, I want to clarify, because I think the
15 record's unclear now.

16 Earlier I understood your testimony to be that
17 to your knowledge there is an image of the contents
18 of this specialty stacking -- specialty lending
19 stacking checklist that Countrywide Home Loans
20 Servicing has access to.

21 A There should be a copy of it with the
22 origination.

23 Q And did you actually go into the system
24 and see if there was an image --

25 MS. ROSE-SMITH: Objection.

1 MR. MALONE: -- of the contents?

2 MS. ROSE-SMITH: Beyond the scope of
3 the direct and it mischaracterizes what she said.
4 She's said, if it was in the origination.

5 BY MR. MALONE:

6 Q Answer my question, please.

7 A I did not go and pull that document
8 from imaging, no, I did not.

9 Q Did you ask anyone to go in and pull
10 that document from imaging?

11 A No, I did not ask anyone to pull that
12 document from imaging.

13 Q Do you know if anyone in your
14 organization made an effort to go into your system
15 and pull the image of the contents of this specialty
16 lending stacking checklist file?

17 MS. ROSE-SMITH: Do you mean within her
18 organization or people working on her behalf, like
19 her counsel?

20 THE WITNESS: That was my next
21 question. Who specifically are you talking about?

22 BY MR. MALONE:

23 Q Let's break that down. Did anyone
24 who's employed by your employer, to your knowledge,
25 go in and make any effort to pull the image of the

1 contents of the specialty lending stacking
2 checklist?

3 A At this time I'm not sure who my
4 counsel asked to get that, so I do not know who they
5 asked to get that.

6 Q Okay. Do you know that they asked
7 someone?

8 A Since we were preparing for this
9 deposition and compiling all the information they
10 could have pulled our imaging from our BPI, they can
11 pull everything that's in our imaging or origination
12 packet.

13 Q My question is; do you know if your
14 counsel asked someone from your organization to go
15 into the image and pull the image of the contents of
16 this specialty lending stacking checklist?

17 MS. ROSE-SMITH: By you are you asking
18 for her personal knowledge or --

19 MR. MALONE: I'm asking her knowledge.

20 MS. ROSE-SMITH: -- what the company
21 knows?

22 MR. MALONE: I'm asking her knowledge.

23 BY MR. MALONE:

24 Q Do you know if your counsel --

25 A My personal knowledge?

1 Q Yes.

2 A No, I do not.

3 MR. MALONE: And, counsel, just so
4 we're not playing gamesmanship here, have you asked
5 someone from your client to go in and pull the
6 documents called for by the deposition notice?

7 MS. ROSE-SMITH: Of course I have,
8 which is why I was able to ask her and get her to
9 confirm that they don't have it.

10 BY MR. MALONE:

11 Q Miss Alvarado, are you aware that
12 although your earlier testimony was that normally
13 the image of the contents should be in the file are
14 you aware that someone went in and looked and
15 couldn't find it?

16 MS. ROSE-SMITH: That's not what her
17 earlier testimony was. Her early testimony was that
18 if that stacking file was there it would be in the
19 origination file.

20 MR. MALONE: And now we have an
21 admission by counsel that the contents are not
22 there. So I'm asking her if she's aware that the
23 contents are not there of this file.

24 MS. ROSE-SMITH: Are you saying the
25 contents of the actual -- whatever it is that you're

1 calling this checklist, or the individual documents
2 that are referenced there?

3 MR. MALONE: I'm talking about --
4 please stop the games. It calls for the contents of
5 the specialty lending stacking checklist file.

6 BY MR. MALONE:

7 Q Are you aware that your counsel had
8 someone from your organization go in and they
9 determined the contents are missing or there's no
10 image of the contents?

11 MS. ROSE-SMITH: Objection. Nobody
12 said that they were missing and also Miss Alvarado
13 can hear, so she just heard me say that.

14 MR. MALONE: Yes.

15 BY MR. MALONE:

16 Q Other than hearing it today, were you
17 aware previously?

18 A No, I was not.

19 Q Tell us about the imaging process that
20 your company does of this specialty lending stacking
21 checklist. When is it imaged?

22 MS. ROSE-SMITH: Objection. She never
23 even said that that stacking checklist was imaged.

24 MR. MALONE: She did so. Stop it.

25 MS. ROSE-SMITH: If you're talking

1 about the file -- no. If you're talking about those
2 two pieces of paper she could tell you that, because
3 that's what she testified to.

4 MR. MALONE: Counsel, please stop
5 interrupting my examination.

6 MS. ROSE-SMITH: I will not allow you
7 to mischaracterize her testimony for the purposes of
8 restarting this deposition. You had your chance.
9 If you want to go find it in the transcript --

10 MR. MALONE: I didn't mischaracterize
11 her testimony.

12 MS. ROSE-SMITH: If you want to go find
13 it in the transcript --

14 MR. MALONE: You interrupted my --

15 MS. ROSE-SMITH: -- and read it
16 back, --

17 MR. MALONE: -- question.

18 MS. ROSE-SMITH: -- otherwise this is
19 just --

20 MR. MALONE: I'm not characterizing her
21 testimony.

22 BY MR. MALONE:

23 Q My question is; tell us what you know
24 about the imaging process done by your employer with
25 regard to the specialty lending stacking checklist,

1 if you have any knowledge.

2 MS. ROSE-SMITH: That document, those
3 two pages, you can answer as to that.

4 MR. MALONE: That's not the question.

5 BY MR. MALONE:

6 Q But go ahead.

7 A That's what's confusing. I'm not sure
8 what you're asking. If you're asking me for our
9 imaging system how we image documents and it's
10 uploaded on our system or are you asking me
11 regarding how the documents are compiled in this
12 checklist which we have not created? And I don't
13 know.

14 Q In your experience over the years is a
15 specialty lending stacking checklist --

16 A I've never seen one before and I stated
17 that; that's the first time I've seen one. I don't
18 originate loans so I would not have privilege to
19 that checklist.

20 Q Okay. And since you don't originate
21 loans, when this issue came up did you have any
22 conversations with anyone in your organization or in
23 Countrywide Home Loans about what the specialty
24 lending stacking checklist is, what its role is in
25 the loan process?

1 A Since it's not our document, no, I do
2 not.

3 Q Do you have any idea as an employee of
4 Countrywide Home Loans Servicing what the phrase
5 specialty lending means?

6 MS. ROSE-SMITH: Objection, calls for
7 speculation.

8 THE WITNESS: No, I do not.

9 BY MR. MALONE:

10 Q Do you know if there are other kinds of
11 stacking checklists imaged in your system?

12 MS. ROSE-SMITH: Objection.

13 THE WITNESS: No, I do not.

14 BY MR. MALONE:

15 Q With regard to the processing of
16 imaging, to the extent there are any images on the
17 Countrywide Home Loan Servicing computer system, do
18 you have any knowledge as to how those images are
19 created? Who does the imaging?

20 A We have a department that does that.

21 Q What is the name of that department?

22 A Offhand I would have to look it up in
23 our directory. I do not know.

24 Q Now, there are a number of bar codes on
25 documents that have been produced so far in

1 discovery. Do you know what I'm talking about? The
2 bar code that appears on the bottom of the mortgage.

3 A No, you'd have to show me.

4 Q Let's get to the document with the
5 note. It's in the collateral file. Did we get the
6 copies? I think we've got two. Why don't we have
7 one marked as an exhibit?

8 MR. MALONE: Can I have the collateral
9 file marked as an exhibit, please?

10 (Alvarado-20 Photocopy of collateral
11 file marked for identification.)

12 BY MR. MALONE:

13 Q I show you what has been marked as
14 Alvarado-20, and there's been a representation
15 earlier on the record, I believe by your counsel,
16 that this is the collateral file and -- this is a
17 photocopy now of the collateral file but the
18 original collateral file contains the original Ukpe
19 note and mortgage and other original documents and
20 it's being maintained in custody of the law firm
21 here.

22 Do you recall that discussion earlier today?

23 A Yes, sir.

24 Q And do you recall when I showed you the
25 note from that file you identified what appears to

1 be a stamped signature? Do you recall that?

2 A Is it -- can you refer to a page?
3 Because this is out of order than it was in that
4 file.

5 Q That's going to make it somewhat
6 difficult.

7 A And everything looks like a copy.

8 THE WITNESS: May I have the collateral
9 file? Thank you.

10 BY MR. MALONE:

11 Q On the collateral file, the original
12 collateral file, there were documents in --

13 A There it is.

14 Q -- a binder clasp.

15 A Page three of three.

16 Q I'm sorry? Page?

17 A Page three of three.

18 MS. ROSE-SMITH: In the back of all
19 that. This is separate. Yeah, that one.

20 MR. MALONE: This is the mortgage.

21 THE WITNESS: Page three. That stamp?

22 BY MR. MALONE:

23 Q Yes. If you recall looking at the
24 original of the file -- and if you need to look at
25 it again -- and saying that it appeared to you to be

1 a stamp?

2 A I agreed with your statement that it
3 appeared to be a stamp. It's in the very back. In
4 the very back. If you see the half -- after the
5 title insurance. Right after the title insurance.

6 Q Keep going forward?

7 A Yeah. Find the short pages.

8 Q Find the short pages?

9 A There.

10 Q Okay.

11 A At the end of it.

12 Q At the end of the short pages?

13 A Page three.

14 Q Thank you. And if you look at the
15 first page of that note do you see there are --
16 looks like three bar codes at the bottom?

17 A Yes, sir.

18 Q Okay. Do those bars have anything to
19 do with the servicing function?

20 A I don't know what those bar codes
21 represent.

22 Q Okay. Do those bar codes have anything
23 to do with the imaging function?

24 A I wouldn't know. I do not know what
25 they represent.

1 Q To your knowledge does Countrywide Home
2 Loan Servicing have anything to do with the
3 placement of the bar codes on the document?

4 A That I do not know.

5 Q Okay. Now, you mentioned that
6 someone -- I'm sorry, what was the name of the
7 organization that does the imaging?

8 MS. ROSE-SMITH: She's told you she
9 doesn't know.

10 THE WITNESS: I don't know.

11 BY MR. MALONE:

12 Q You don't know? Sorry. There is an
13 organization, though, --

14 A There is a department within the
15 company, yes.

16 Q Okay. Do you know if that department
17 is primarily responsible for imaging loan documents
18 originated by any Countrywide related company or
19 does it duplicate what Countrywide Home Loans, Inc.
20 does in terms of imaging?

21 A As far as I'm aware that department
22 actually images all documents, original documents,
23 images them into the system. If it's e-mail or if
24 it's a fax or if it's a correspondence, that's also
25 imaged into the system.

1 Q So that somewhere in Countrywide Home
2 Loan Servicing imaging is done that it's not the
3 responsibility of Countrywide Home Loans, Inc., the
4 lender?

5 MS. ROSE-SMITH: Objection. That's not
6 what she said at all.

7 MR. MALONE: Well, I'm asking.

8 BY MR. MALONE:

9 Q Do you understand the question?

10 A No. You confused me.

11 Q I'll withdraw it then. So is it your
12 understanding that when the original collateral file
13 comes in, the entire contents of that file is imaged
14 by the imaging department of Countrywide Home Loan
15 Servicing?

16 MS. ROSE-SMITH: Objection.

17 THE WITNESS: I don't know if the
18 collateral file is fully imaged. I do know the
19 origination file is fully imaged.

20 BY MR. MALONE:

21 Q And speaking of imaging, does your
22 servicing organization give support to law firms?
23 And by that I mean in this case a law firm is told
24 to bring a foreclosure action. Where do they get
25 the copy of the note and where do they get a copy of

1 the mortgage from?

2 A Business --

3 MS. ROSE-SMITH: Objection.

4 THE WITNESS: -- Partner Interface.

5 BY MR. MALONE:

6 Q Business Partner -- is that BPI?

7 A Right.

8 Q Is it electronically stored on that
9 Business Partner Interface?

10 A It's our imaging system, which they
11 will have access to once they're assigned the loan.

12 Q Is there any charge to them for
13 downloading the documents from that interface?

14 A I don't know. It's used through the
15 Business Partner Interface so if they have access to
16 it, it just pulls the information.

17 Q And the information maintained on the
18 Business Partner Interface, to your knowledge is it
19 the most thorough and complete information available
20 to Countrywide Home Loans processing?

21 MS. ROSE-SMITH: Objection. You can
22 answer if you you know.

23 THE WITNESS: Can you explain it to me?
24 I'm kind of lost.

25 BY MR. MALONE:

1 Q Sure. A law firm has to bring a
2 lawsuit against somebody, they need the mortgage and
3 the note, correct?

4 A Yes.

5 Q Okay. Does Countrywide make an effort
6 to maintain the most current and complete mortgage
7 document available to it and is that the document
8 that's available to the law firm to access?

9 MS. ROSE-SMITH: Objection. I don't
10 know -- most current and complete?

11 BY MR. MALONE:

12 Q Well, do they keep a stale and
13 incomplete document? Is that their policy?

14 MS. ROSE-SMITH: Objection. The
15 problem is -- the reason I keep objecting, and maybe
16 I'll stop if I understand what you're trying to
17 say -- you keep saying most current and complete or
18 stale and -- I think those are mischaracterizations
19 of what she said before.

20 But if you're asking what her definition of
21 what stale is, then, you know, go for it.

22 THE WITNESS: The origination package
23 is imaged on the system to be available to the
24 attorney. There are times where the note might be
25 missing and we have to access collateral -- ask for

1 the collateral file to have it imaged and placed on
2 our system so that way the foreclosure attorney can
3 view it.

4 BY MR. MALONE:

5 Q Okay. So when the foreclosure attorney
6 accesses the system and asks for the note is it your
7 understanding that if the note's there it's the most
8 complete, available, current version of the note?

9 A Yes.

10 Q And when they ask for the image of the
11 mortgage is it your understanding that's the most
12 current and complete available copy of the mortgage?

13 MS. ROSE-SMITH: Objection.

14 THE WITNESS: You mean --

15 MS. ROSE-SMITH: Are you talking about
16 from the -- can you read that question back?

17 (The court reporter read back the
18 following:

19 "Question: And when they ask for the
20 image of the mortgage is it your
21 understanding that's the most current and
22 complete available copy of the mortgage?")

23 MS. ROSE-SMITH: The image from the
24 collateral file or the image from the system?

25 MR. MALONE: I don't do the imaging.

1 BY MR. MALONE:

2 Q Your understanding as the person who is
3 here from Countrywide Home Loan Servicing.

4 MS. ROSE-SMITH: Then objection to the
5 form.

6 THE WITNESS: I said the origination
7 packet is what's immediately imagined and placed on
8 the system. If there's a document missing and it's
9 requested it's located through the collateral file.

10 BY MR. MALONE:

11 Q And, by the way, are you aware that
12 your employer is a signatory to the alleged pooling
13 and servicing agreement that applies to this case?

14 MS. ROSE-SMITH: Alleged? Objection.

15 BY MR. MALONE:

16 Q Are you aware that your -- Countrywide
17 Home Loan Servicing, L.P. is the master servicer and
18 has signed the pooling and servicing agreement?

19 A No, I have not gone over the pooling
20 and servicing agreement line by line.

21 Q And do you know if your employer images
22 the pooling and servicing agreement as part of the
23 entire loan package, loan transaction?

24 MS. ROSE-SMITH: Objection.

25 THE WITNESS: As far as I'm aware it's

1 imaged, yes. It's not located on the imaging system
2 that's available throughout Business Partner
3 Interface, BPI. It's -- like I stated earlier, it's
4 located on a private server that you need passwords
5 to get into and only a certain department can get
6 into that.

7 BY MR. MALONE:

8 Q And what is the name of that
9 department?

10 A Investor --

11 MS. ROSE-SMITH: Objection.

12 THE WITNESS: -- accounting.

13 BY MR. MALONE:

14 Q Investor accounting? Okay. Now, if
15 the law firm -- if for some reason there's an issue
16 in the foreclosure that's come up about the pooling
17 and servicing agreement, how do they request a copy
18 of the pooling and servicing agreement? Who do they
19 go to?

20 A The person -- the foreclosure
21 specialist, the person that's assigned to the loan.

22 Q Okay. And -- sorry -- hypothetically I
23 call up and say, I need the pooling and servicing
24 agreement. What would the foreclosure specialist
25 then do to get it?

1 A Foreclosure specialist would have no
2 idea of what they're talking about and they would
3 ask more questions as to why you need this.

4 Q Okay. And assuming I was able to
5 satisfy you -- the judge ordered it be produced,
6 what would the foreclosure specialist then do to go
7 about getting the pooling and servicing agreement?

8 A The foreclosure specialist would have
9 it assigned to a case management group showing that
10 it's in litigation and has been Court ordered.

11 It would come -- be assigned to somebody among
12 my teams and they would go ahead and ask investor
13 accounting, providing the investor number, the loan
14 number and the name, for the pooling and servicing
15 agreement.

16 Q And how would that be documented in
17 your system, that these requests had been made?

18 A It's in our case management database.

19 Q We're going to ask you to produce those
20 relevant documents in the case management database
21 regarding requests for the pooling and servicing
22 agreement made in this case by the Phelan, Hallinan
23 and Schmieg --

24 MS. ROSE-SMITH: And as your counsel --

25 BY MR. MALONE:

1 Q -- law firm.

2 MS. ROSE-SMITH: -- I'm going to tell
3 you unequivocally, absolutely no.

4 MR. MALONE: Fine.

5 I have no further questions. Thank you.

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C E R T I F I C A T I O N

STATE OF NEW JERSEY

SS.

COUNTY OF CAMDEN

I, Linda S. Scholz, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that I reported the deposition in the above-captioned matter; that the said witness was duly sworn by me; that the reading and signing of the deposition were waived by said witness and by counsel for the respective parties; that the foregoing is a true and correct transcript of the stenographic notes of testimony taken by me in the above-captioned matter.

I further certify that I am not an attorney or counsel for any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

Linda S. Scholz, CSR #XIO1870
Notary Public #2080625 Exp. 9/27/11