

DATE: August 17, 2012 **TIME: 9:00 A.M.**
PREVAILING PARTY SHALL PREPARE THE ORDER
(SEE [RULE OF COURT 3.1312](#))

LINE #	CASE #	CASE TITLE	RULING
LINE 1	109CV142581	Gimelli v Jack	Click on line 1 for ruling
LINE 2	109CV149780	Kwan Software v Foray Technologies	Click on line 2 for ruling
LINE 3	109CV150092	Vatche Cabayan v American Lien	Click on line 3 for ruling
LINE 4	110CV169895	Vu v Sobek	Click on line 4 for ruling
LINE 5	110CV174408	Barekzai v Amidi	Click on line 5 for ruling
LINE 6	111CV191193	Reddy v Mayuri Inc.	Click on line 6 for ruling
LINE 7	111CV195599	Official Police Garage v Rickenbacker Group	Counsel to appear. Click on line 7 for explanation
LINE 8	111CV203657	Mendoza v Stanley	Click on line 8 for ruling
LINE 9	111CV205574	Quality Quartz v Gilmore	Off Calendar
LINE 10	111CV210841	Paturi v Vattikuti	Click on line 10 for ruling
LINE 11	111CV211316	Mclean v Fishman	Click on line 11 for ruling
LINE 12	111CV212226	Capital Towne House v Salas	Off Calendar per Stipulation & Order
LINE 13	112CV220879	Thanasobhon v Yoyo Sushi	Click on line 13 for ruling
LINE 14	112CV221817	Khazaeli v Notify Technology	Click on line 14 for ruling
LINE 15	112CV222380	Maxim Integrated v Boutorabi	Click on line 15 for ruling
LINE 16	108CV107109	Greenlaw v Gage	Click on line 16 for ruling
LINE 17	109CV159993	Merritt v Mozilo	Click on line 17 for ruling
LINE 18	108CV111910	Rose v Stanford Medical	Off Calendar
LINE 19	109CV134566	EZ Land v Landmark	Continued to 9/28/12
LINE 23	110CV189874	Retamoso v JHRV	Off Calendar
LINE 24	111CV195632	Air Systems v Grandstedt	Off Calendar
LINE 25	111CV200708	Sorento Networks v NBS	Off Calendar
LINE 26	111CV201220	Guidetech v Rajuan	Off Calendar
LINE 27	111CV201568	Dollens v Target	Off Calendar

APPELLANTS'
EXHIBIT C

Case Name **Calendar line 17**
: MERRITT, ET AL. v. MOZILO, ET AL.
Case No: 1-09-CV-059993
Date: August 17, 2012
Time: 9:00 a.m.
Dept: 21

Defendants Countrywide Financial Corporation, Countrywide Home Loans, Inc., Angelo Mozilo, David Sambol, and Michael Colyer's (collectively "Defendants") motion to compel plaintiffs David and Salma Merritt (collectively "Plaintiffs") to appear and be deposed is DENIED. Plaintiffs did not fail to appear for examination, but rather, suspended the depositions for the purpose of moving for a protective order, as they are permitted to do under Code of Civil Procedure section 2025.480. (See Code Civ. Proc., §§ 2025.450, 2025.420, 2025.480.) However, David and Salma shall appear for a properly noticed continuation of their depositions subject to the provisions in this order.

Plaintiffs' motion for a protective order is DENIED, as good cause has not been shown justifying the requested relief. (See Code Civ. Proc., § 2025.420, subd. (b).) The alleged misconduct of Defendant's counsel does rise to the level justifying termination of the depositions or the taking of the depositions solely by written questions and/or telephone. A party is generally entitled to take the oral deposition of another party to the action. (See Code Civ. Proc., §2025.010.) Plaintiffs have not demonstrated that the burden or intrusiveness involved in taking the depositions outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. (See *Emerson Elec. Co. v. Sup. Ct.* (1997) 16 Cal.4th 1101, 1110.)

Defendants' motion for a protective order is also DENIED, as good cause has not been shown justifying the requested relief. (See Code Civ. Proc., § 2025.420, subd. (b).) While Defendants demonstrate that Plaintiffs have disrupted the depositions with excessive objections and refusals to answers questions, the alleged misconduct does not justify appointment of a discovery referee. (See Code Civ. Proc., § 639; *Taggares v. Sup. Ct.* (1998) 62 Cal.App.4th 94, 105.) With regard to the other relief being sought, Defendants have not demonstrated that the particular actions complained of (i.e. the presence of third parties and the independent videotaping of the depositions) have caused unreasonable disruptions.

However, in denying a motion for a protective order, the court may instruct the parties to proceed with the discovery against which protection was sought on whatever terms and conditions the court deems just. (See Code Civ. Proc., § 2025.450, subd. (c).) In considering the allegations regarding both parties' behavior thus far, the court orders that the deposition of Salma Merritt shall resume, and the deposition of David Merritt shall commence, subject to the following terms and conditions:

1. The depositions may be attended only by the parties, their counsel, Ronald Merritt, and any official stenographer and/or videographer.
2. Plaintiffs may bring their one-year old daughter to the deposition facility, but the child must be accompanied by a caretaker, and both she and the caretaker must remain outside the deposition room during the taking of the depositions.

3. Once a deposition begins, all attendees other than the deponent shall remain quiet, and shall not interrupt the taking of the deposition.
4. Only the deponent being examined may object to questions posed by counsel, provided he/she has a legitimate basis for making the objection. David shall not object on Salma's behalf, or instruct her not to answer questions. Salma shall not object on David's behalf, or instruct him not to answer questions.
5. Should Plaintiffs choose to videotape the depositions, Plaintiffs shall set up their equipment in an unobtrusive location by the scheduled start time. The camera shall focus exclusively on the deponent. Plaintiffs shall not interrupt the deposition to change tapes or adjust the recording. Recording shall not continue during breaks.
6. All persons attending the deposition shall limit physical contact to a handshake.
7. All persons attending the deposition shall refrain from using profanities or other abusive or harassing language.
8. Salma Merritt's deposition shall begin at 1:30 pm and stop at 4:30 pm each day. The deposition shall resume and continue day to day until complete.
9. David Merritt's deposition shall begin at 9:30 am and stop at 5:00 pm each day. The deposition shall commence and continue day to day until complete.
10. Deponents shall not be questioned on the matter of their religious affiliation or belief.
11. Deponents may be questioned on the matters of their finances and/or ability to work and earn income, to the extent that those matters are relevant to the lawsuit.
12. If any of the above conditions are violated by a party or counsel, if the depositions are conducted in an inappropriate manner, or if deponents disrupt and evade questioning, the depositions may be terminated or extended upon the order of this court. Additionally, the party and/or counsel unsuccessfully making or opposing a motion to obtain such relief may be subject to sanction. Any such motion must be accompanied by a certified transcript of the deposition, or the relevant portions of the transcript.

Accordingly, Salma Merritt shall appear and resume her deposition, at a mutually agreed upon date, within 14 calendar days of this order. David Merritt shall appear and commence his deposition, at a mutually agreed upon date, within 21 calendar days of this order. Both depositions shall continue until complete, and be conducted in accordance with the terms and conditions set forth in this order.

Plaintiffs' request for monetary sanctions against Defendants and their counsel is DENIED. Plaintiffs request for monetary sanctions is not code-compliant, as it is not accompanied by a declaration setting forth facts supporting the specific amount sought. (See Code Civ. Proc., § 2023.040.) Moreover, Plaintiffs have not prevailed on their motion for a protective order, and are therefore not entitled to sanctions. (See Code Civ. Proc., § 2025.420, subd. (d).)

Defendants to prepare the written order for the Court's signature.

