

At Commercial Division Part 39
Supreme Court of the State of New
York, held in and for the County of
New York, at the Courthouse located at
60 Centre Street, New York, New
York, on the ___ day of September,
2013

P R E S E N T:

HONORABLE BARBARA R. KAPNICK, J.S.C.

Index No. 651786/2011

In the matter of the application of

THE BANK OF NEW YORK MELLON (as Trustee under various
Pooling and Servicing Agreements and Indenture Trustee under
various Indentures), *et al.*

Petitioners,

for an order, pursuant to C.P.L.R. § 7701, seeking judicial
instructions and approval of a proposed settlement.

Assigned to: Kapnick, J.
(Part 39)

**ORDER TO SHOW
CAUSE WHY THE
COURT SHOULD NOT
CONTINUE THE TRIAL
FOLLOWING THE
SEPTEMBER TRIAL
DATES TO ALLOW
DISCOVERY
CONCERNING NEWLY
DISCLOSED EVIDENCE**

Motion Seq. ___

UPON the accompanying Memorandum of Law in Support of the Order to Show Cause
Why the Court Should Not Continue the Trial Following the September Trial Dates to Allow
Discovery Concerning Newly Disclosed Evidence and Affirmation of Michael A. Rollin, dated
August 30, 2013, and all pleadings and proceedings previously had herein,

SUFFICIENT CAUSE THEREFOR BEING ALLEGED, IT IS HEREBY

ORDERED that Petitioner The Bank of New York Mellon (“BNYM”) show cause
before this Court at Commercial Division Part 39, to be held at 60 Centre Street, New York, New
York, on the ___ day of September, 2013 at ___ a.m/p.m., or as soon as counsel may be heard,
why an order should not be entered pursuant to CPLR § 4402 as follows:

- 1) Following the trial dates that are already set in September, continuing the trial to allow Respondents an opportunity to obtain discovery regarding BNYM's investigation and evaluation of claims;
- 2) Compelling BNYM to produce documents concerning BNYM's investigation and evaluation of claims, including documents that were previously subject to claims of privilege;
- 3) Permitting necessary depositions based on that production;
- 4) Granting leave to recall any witnesses to provide additional testimony based on the newly disclosed evidence; and
- 5) Awarding such other and further relief as the Court may deem just and proper.

SUFFICIENT REASON APPEARING THEREFOR, let service of a copy of this Order, together with the papers upon which it was granted, upon counsel for BNYM, by electronic filing service on or before the ___ day of September 2013, be deemed good and sufficient service. Any answering papers shall be filed and served upon all counsel of record on or before September ___, 2013. Properly bound and tabbed copies shall be delivered to the clerk in Part 39 or to Chambers.

ENTER,

J.S.C.