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 WMC MORTGAGE CORPORATION

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 8 **UNITED STATES DISTRICT COURT**

9
 10 **EASTERN DISTRICT OF CALIFORNIA**

11
 12 FRANCISCO CAZARES,)

13 Plaintiffs,)

14 vs.)

15 HOMEQ SERVICING, et al.,)

16 Defendants.)
 17)
 18)
 19)
 20)

CASE NO. 2:09-CV-01577-JAM-EFB

Assigned to: Hon. John A. Mendez

**ORDER GRANTING WMC
 MORTGAGE COPORATION'S
 MOTION TO DISMISS FIRST
 AMENDED COMPLAINT FOR
 FAILURE TO STATE A CLAIM**

21 Defendant WMC MORTGAGE CORPORATION's ("WMC" or "Defendant") motion to
 22 dismiss plaintiff's ("Plaintiff") First Amended Complaint filed herein on August 10, 2009
 23 ("Complaint") and all claims against Defendant WMC therein *with prejudice* ("Motion to Dismiss")
 24 came on regularly for hearing on October 7, 2009 in the above-entitled Court. Michael J.M. Brook,
 25 Esq. of Lanahan & Reilly appeared for Plaintiff and Brion St. James, Esq. specially apperared for the
 26 Law Offices of Glenn H. Wechsler on behalf of Defendant WMC. Having reviewed the papers filed
 27 in support of and in opposition to the Motion to Dismiss the Court's files and records, oral argument
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1 and good cause appearing therefor, the Court made its rulings as follows:

2 IT IS HEREBY ORDERED that Defendant WMC's Motion to Dismiss is well taken and
3 granted in its entirety.

4 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
5 as to the Complaint's First Cause of Action for Violation of the Truth in Lending Act (15 USC §
6 1601, et seq.), and that said cause of action is dismissed as to WMC *with prejudice*.

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8 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
9 as to the Complaint's Second Cause of Action for Violation of California Rosenthal Act, and that said
10 cause of action is dismissed as to WMC *with prejudice*.

11 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
12 as to the Complaint's Third Cause of Action for Negligence, and that said cause of action is dismissed
13 as to WMC *with prejudice*.

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15 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
16 as to the Complaint's Fourth Cause of Action for Violation of Real Estate Settlement Procedures Act
17 (12 USC § 2605, et seq.), and that said cause of action is dismissed as to WMC *with prejudice*.

18 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
19 as to the Complaint's Fifth Cause of Action for Breach of Fiduciary Duty, and that said cause of
20 action is dismissed as to WMC *with prejudice*.

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22 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
23 as to the Complaint's Sixth Cause of Action for Fraud, and that said cause of action is dismissed as to
24 WMC *with prejudice*.

25 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
26 as to the Complaint's Seventh Cause of Action for Violation of California Business & Professions
27 Code § 17200, et seq., and that said cause of action is dismissed as to WMC *with prejudice*.

1 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
2 as to the Complaint's Eighth Cause of Action for Breach of Contract, and that said cause of action is
3 dismissed as to WMC *with prejudice*.

4 IT IS HEREBY FURTHER ORDERED that Defendant WMC's Motion to Dismiss is granted
5 as to the Complaint's Ninth Cause of Action for Breach of Implied Covenant of Good Faith and Fair
6 Dealing, and that said cause of action is dismissed as to WMC *with prejudice*.

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8 IT IS HEREBY FURTHER ORDERED that Plaintiff's Complaint is dismissed in its entirety
9 as to Defendant WMC *with prejudice*.

10 IT IS SO ORDERED.

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12 DATED: October 8, 2009

13 /s/ John A. Mendez
14 UNITED STATES DISTRICT JUDGE

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