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11 **Attorneys for Plaintiffs**
12 *(Additional counsel listed on signature page)*

13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**
15 **SACRAMENTO DIVISION**

16 EUGENIO AND ROSA CONTRERAS,
17 WILLIAM PHILLIPS, TERESA BARNEY,
18 KEITH AND TERESA MARCEL, SHERLIE
19 CHARLOT, JENNIE MILLER, and EDWIN
20 YAGER, on behalf of themselves and all others
21 similarly situated,

Plaintiffs,

21 v.

22 NATIONSTAR MORTGAGE LLC, a Delaware
23 Limited Liability Company; SOLUTIONSTAR,
24 LLC (N/K/A XOME HOLDINGS LLC), a
25 Delaware Limited Liability Company; and
26 DOES 1 through 1000,

Defendants.

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Attorneys for Defendants

No. 2:16-cv-00302-MCE-EFB

**STIPULATED MOTION AND
ORDER ALLOWING PLAINTIFFS TO
AMEND/CORRECT THE SECOND
AMENDED CLASS ACTION COMPLAINT
AND EXTENDING TIME FOR
DEFENDANTS TO RESPOND**

Action Filed: February 12, 2016
Trial Date: TBD

1 Plaintiffs Eugenio and Rosa Contreras, William Phillips, Teresa Barney, Keith and Teresa
2 Marcel, Sherlie Charlot, Jennie Miller and Edwin Yager, on behalf of themselves and all others
3 similarly situated (“Plaintiffs”) and Defendants Nationstar Mortgage LLC and Solutionstar Field
4 Services LLC (who Defendants claim is erroneously named as Solutionstar LLC) (collectively
5 “Nationstar”) (together, the “Parties”) by and through their respective counsel of record, hereby submit
6 this Stipulated Motion regarding the following:
7

8 1. Through the course of discovery, Plaintiffs have received additional information regarding
9 the corporate structure and identity of the Defendants which now necessitates the need to
10 amend the Second Amended Class Action Complaint (“SAC”), ECF No. 50, in order to
11 remove and correct a misnamed defendant.

12 A. Plaintiffs named Solutionstar LLC as a defendant in their SAC.

13 B. In fact, the correct legal names of the Solutionstar defendant entities are:

14 Solutionstar Holdings LLC, N/K/A Xome Holdings LLC, and Solutionstar Field
15 Services LLC.
16

17 2. Plaintiff Edwin Yager has decided to withdraw as a named plaintiff in this matter, and
18 Plaintiffs Eugenio and Rosa Contreras wish to add factual allegations to the complaint
19 regarding their payment of Pay-to-Pay fees.

20 3. The parties wish to conform the complaint to the Court’s Orders on the Motions to
21 Dismiss, ECF Nos. 19, 79.

22 4. The parties met and conferred regarding the proposed corrections and amendments of the
23 SAC by letter on March 24, 2020, by telephone on April 2, 2020, by letter on April 7,
24 2020, by email on April 24, 2020, and by letter on April 29, 2020. On March 24, 2020,
25 Plaintiffs sent a redlined copy of the proposed Third Amended Class Action Complaint
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1 (“TAC”) to counsel for Defendants. Pursuant to Rule 15(a)(2), on April 24, 2020,
2 Defendants provided written consent for Plaintiffs to amend the complaint. *See* Fed. R.
3 Civ. P. 15(a)(2). On April 29, 2020, Plaintiffs sent a revised redlined copy of the proposed
4 TAC to counsel for Defendants.

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6 5. Pursuant to Rule 15(c)(1), the TAC relates back to the date of the original pleading for the
7 foregoing reasons:

8 A. Pursuant to Rule 15(c)(1)(C) “the amendment changes the party or the naming of
9 the party against whom a claim is asserted,” Fed. R. Civ. P. 15(c)(1)(C), because
10 the amendment removes as a named party “Solutionstar LLC” and replaces it with
11 Solutionstar Holdings LLC N/K/A Xome Holdings LLC, and Solutionstar Field
12 Services LLC.

13
14 B. Pursuant to Rule 15(c)(1)(B) “the amendment asserts a claim or defense that arose
15 out of the conduct, transaction, or occurrence set out—or attempted to be set out—
16 in the original pleading,” Fed. R. Civ. P. 15(c)(1)(B), because the TAC reflects that
17 Solutionstar Holdings LLC and Solutionstar Field Services LLC are responsible
18 for the same conduct previously alleged against Solutionstar LLC.

19
20 C. Pursuant to Rule 15(c)(1)(C)(ii), “within the period provided by Rule 4(m) for
21 serving the summons and complaint, the party to be brought in by amendment . . .
22 knew or should have known that the action would have been brought against it, but
23 for a mistake concerning the proper party’s identity.” Fed. R. Civ. P.
24 15(c)(1)(C)(ii). The operative SAC put Defendants Solutionstar Holdings LLC and
25 Solutionstar Field Services LLC on notice of the claims against them because
26 newly named Defendant Solutionstar Holdings LLC is a wholly owned subsidiary
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1 of Defendant Nationstar Mortgage LLC, and newly named Defendant Solutionstar
2 Field Services LLC was a wholly owned subsidiary of Solutionstar Holdings LLC,
3 and both Nationstar Mortgage LLC and Solutionstar Field Services LLC (who
4 Defendants claim is erroneously named as Solutionstar LLC), have been
5 represented in this matter by the firm of Severson & Watson, San Francisco,
6 California, since March 17, 2016.
7

- 8 6. Pursuant to L.R. 137(c), Plaintiffs attach as Exhibit A hereto a redlined version of the SAC
9 (omitting all exhibits) and attach as Exhibit B hereto the proposed TAC (omitting all
10 exhibits).
11 7. Plaintiffs shall file and serve the TAC on the parties to this case within seven (7) days of
12 this Order granting the Stipulated Motion, and on Solutionstar Holdings LLC and
13 Solutionstar Field Services LLC, pursuant to Rule 4. *See* Fed. R. Civ. P. 4. Counsel for
14 Defendants has agreed to accept service of the TAC electronically.
15 8. Pursuant to Rule 15(a)(3), the deadline for Defendants to answer Plaintiffs' TAC shall be
16 fourteen (14) days after service of the TAC. *See* Fed. R. Civ. P. 15(a)(3).
17

18 The Parties therefore respectfully request the Court grant this Stipulated Motion.
19

20 DATED this 4th day of May 2020.
21

22 By /s/ Laura R. Gerber

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Attorneys for Defendants

IT IS SO ORDERED.

Dated: May 4, 2020


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE