

1 David M. Arbogast - State Bar No. 167571
 2 darbogast@law111.com
 3 Jeffrey K. Berns - State Bar No. 131351
 4 jberns@law111.com
 5 **ARBOGAST & BERNs LLP**
 6 19510 Ventura Boulevard, Suite 200
 7 Tarzana, California 91356
 8 Phone: (818) 961-2000; Fax: (818) 867-4820

9 *[Additional counsel listed on signature page]*
 10 **Attorneys for Plaintiffs**

11 J. Thomas Aldrich - State Bar No. 216695
 12 taldrich@eakdl.com
 13 **ERICKSEN ARBUTHNOT.**
 14 100 Howe Avenue, Suite 110 South
 15 Sacramento, CA 95825-8201
 16 Phone: (916) 483-5181

17 **Attorneys for Defendant**
 18 LENDING 1st MORTGAGE, LLC

19 Regina J. McClendon - State Bar No. 184669
 20 rjm@severson.com
 21 **SEVERSON & WERSON**
 22 One Embarcadero Center, Suite 2600
 23 San Francisco, CA 94111
 24 Phone: (415) 677-5602; Facsimile: (415) 956-0439

25 **Attorneys for Defendant**
 26 EMC MORTGAGE CORPORATION

27 **UNITED STATES DISTRICT COURT**
 28 **NORTHERN DISTRICT OF CALIFORNIA**

29 ARMANDO PLASCENCIA, and MELANIA)
 30 PLASCENCIA, individually and on behalf of)
 31 all others similarly situated,)

32 Plaintiffs,)

33 v.)

34 LENDING 1st MORTGAGE and LENDING 1st)
 35 MORTGAGE, LLC, EMC MORTGAGE)
 36 CORPORATION, and DOES 1 through 10)
 37 inclusive,)

38 Defendants.)

CASE NO. C-07-04485 - CW

Judge: Hon. Claudia Wilken

**STIPULATION AND ORDER
 CONTINUING HEARING DATE FOR
 PLAINTIFFS' MOTIONS FOR CLASS
 CERTIFICATION AND PRELIMINARY
 INJUNCTION AS MODIFIED**

Complaint Filed: August 29, 2007
 Trial Date: Not set yet

1 **STIPULATION**

2 WHEREAS, on July 3, 2008, this Court issued its Case Management Order which set the hearing
3 date for Plaintiffs' Motion of Class Certification for January 8, 2009 at 2:00 p.m.;

4 WHEREAS, on November 10, 2008, Plaintiffs filed their Class Certification Motion and Motion
5 for Preliminary Injunction which, with proper notice under the local rules of this court, set the motion
6 hearing for December 11, 2008;

7 WHEREAS, Defendants EMC MORTGAGE CORPORATION, LENDING 1ST MORTGAGE
8 and LENDING 1ST MORTGAGE, LLC ("Defendants") have requested that Plaintiffs' motions be
9 continued from the noticed date to the date originally provided by this Court;

10 WHEREAS, Plaintiffs have requested that if their class certification motion and motion for
11 preliminary injunction are continued per Defendants' request, that the deadline for Defendants'
12 Oppositions thereto be specifically set for December 15, 2008.

13 WHEREAS, counsel have agreed, with the Court's permission, to reschedule the hearing date for
14 Plaintiffs' Motion for Class Certification and Motion for Preliminary Injunction to January 8, 2009 and
15 modify the briefing schedule as indicated herein.

16 IT IS THEREFORE STIPULATED by and among Plaintiffs and Defendants that, should the
17 Court's schedule permit, Plaintiffs' Motion for Class Certification and Motion for Preliminary
18 Injunction shall be continued to January 8, 2009, at 2:00 p.m. and Defendants' Oppositions thereto be
19 filed and served on or before December 15, 2008.

20
21 **IT IS SO STIPULATED:**

22
23 DATED: November 13, 2008

Respectfully submitted,

24 ARMANDO PLASCENCIA and
25 MELANIAPLASCENCIA

26 By their attorneys,

27 /s/ Jeffrey K. Berns
Jeffrey K. Berns
28 **ARBOGAST & BERNS LLP**
19510 Ventura Blvd., Suite 200

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Tarzana, CA 91356
Phone: (818) 961-2000
Fax: (818) 867-4820

KIESEL BOUCHER LARSON LLP

Paul R. Kiesel (SBN 119854)
Patrick De Blasé(SBN 167138)
Michael C. Eyerly (SBN 178693)
8648 Wilshire Blvd.
Beverly Hills, CA 90211
Phone: (310) 854-4444
Fax: (310) 854-0812

SEEGER WEISS LLP

Jonathan Shub (SBN 237708)
1515 Market Street, Suite 1380
Philadelphia, PA 19102
Phone: (215) 564-2300
Fax: (215) 851-8029

Attorneys for Plaintiffs

DATED: November 13, 2008

LENDING 1st MORTGAGE, LLC.

By its attorneys,

/s/ Thomas Aldrich

J. Thomas Aldrich
**ERICKSEN, ARBUTHNOT, KILDUFF,
DAY & LINDSTROM, INC.**
100 Howe Avenue, Suite 110 South
Sacramento, CA 95825-8201
Phone: (916) 483-5181

DATED: November 13, 2008

EMC MORTGAGE CORPORATION

By its attorneys,

/s/ Regina McClendon

Regina J. McClendon
SEVERSON & WERSON
One Embarcadero Center, Suite 2600
San Francisco, CA 94111
Phone: (415) 677-5602; Facsimile: (415) 956-0439

Attorneys for Defendants

1 **ORDER**

2 Pursuant to the Stipulation of counsel and for good cause shown, IT IS HEREBY ORDERED
3 that:

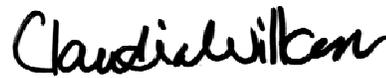
4 1. Plaintiffs' Motion for Class Certification and Motion for Preliminary Injunction, which
5 are both currently set for December 11, 2008, are continued to January 8, 2009 at 2:00 p.m.

6 2. Defendants EMC MORTGAGE CORPORATION, LENDING 1ST MORTGAGE and
7 LENDING 1ST MORTGAGE, LLC Opposition(s) to Plaintiffs' Motion for Class Certification and
8 Motion for Preliminary Injunction shall be filed and served on or before December 15, 2008. **Any reply**
9 **shall be filed by December 22, 2008.**

10
11 **IT IS SO ORDERED**

12 11/14

13 Dated: _____, 2008



14 Hon. Claudia Wilken
15 United States District Court Judge