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LENDING 1st MORTGAGE, LLC

16 **UNITED STATES DISTRICT COURT**
 17 **NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION**

18 ARMANDO PLASCENCIA, and MELANIA)
 19 PLASCENCIA, individually and on behalf of)
 all others similarly situated,)
 20 Plaintiffs,)
 21 v.)
 22 LENDING 1st MORTGAGE and LENDING 1st)
 23 MORTGAGE, LLC, EMC MORTGAGE)
 24 CORPORATION, and DOES 1 through 10)
 inclusive,)
 25 Defendants.)

CASE NO. 4:07-cv-04485-CW
 Judge: Hon. Claudia Wilken
STIPULATION AND ~~PROPOSED~~ ORDER
CONTINUING HEARING DATE FOR
PLAINTIFFS' MOTIONS FOR CLASS
CERTIFICATION AND PRELIMINARY
INJUNCTION
 Complaint Filed: August 29, 2007
 Trial Date: Not set yet

1 **STIPULATION**

2 WHEREFORE, on November 10, 2008, Plaintiffs, ARMANDO PLASCENCIA, and MELANIA
3 PLASCENCIA, filed their Motion for Class Certification and Motion for Preliminary Injunction which
4 are currently set to be heard on January 22, 2009;

5 WHEREFORE, Plaintiffs and Defendant EMC Mortgage Corp. (“Defendant”) have agreed to
6 hold an informal settlement conference to discuss a resolution of this and other cases on January 21,
7 2009;

8 WHEREFORE, in order to allow the parties to have meaningful settlement discussions,
9 Defendant EMC has agreed that it will use its best efforts to provide Plaintiffs with pertinent
10 information about the proposed Classes before the January 21, 2009 informal settlement conference; and

11 WHEREFORE, Plaintiffs and Defendants have agreed, with the Court's permission, to
12 reschedule the hearing date for Plaintiffs' Motion for Class Certification and Motion for Preliminary
13 Injunction to March 5, 2009.

14 IT IS THEREFORE STIPULATED by and among Plaintiffs and Defendants that, should the
15 Court's schedule permit, Plaintiffs’ Motion for Class Certification and Motion for Preliminary Injunction
16 shall be continued to March 5, 2009, at 2:00 p.m.

17
18 **IT IS SO STIPULATED:**

19
20 DATED: December 19, 2008

Respectfully submitted,

21 ARMANDO PLASCENCIA and
22 MELANIAPLASCENCIA

23 By their attorneys,

24 /s/ Jeffrey K. Berns
Jeffrey K. Berns
25 **ARBOGAST & BERNIS LLP**
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28 *Attorneys for Plaintiffs*

1 DATED: December 19, 2008

LENDING 1st MORTGAGE, LLC.

2 By its attorneys,

3 /s/ J. Thomas Aldrich

4 J. Thomas Aldrich
5 **ERICKSEN, ARBUTHNOT, KILDUFF,**
6 **DAY & LINDSTROM, INC.**
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10 DATED: December 19, 2008

EMC MORTGAGE CORPORATION

11 By its attorneys,

12 /s/ Robert J. Emanuel

13 Robert J. Emanuel
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19 *Attorneys for Defendants*

20 ~~**PROPOSED**~~ ORDER

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

- 23 1. Plaintiffs' Motion for Class Certification and Motion for Preliminary Injunction, which
24 are both currently set for January 22, 2009, are continued to March 5, 2009 at 2:00 p.m.

25 **IT IS SO ORDERED**

26 12/23

27 Dated: _____, 2008



28 _____
Hon. Claudia Wilken
United States District Court Judge