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5 IN THE UNITED STATES DISTRICT COURT

6
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8
9 No. C 07-04485 CW

10 ARMANDO PLASCENCIA and MELANIA
11 PLASCENCIA, individually and on
12 behalf of all others similarly
13 situated,

ORDER DEFINING
CLASSES

14 Plaintiffs,

15 v.

16 LENDING 1st MORTGAGE, LENDING 1st
17 MORTGAGE, LLC, EMC MORTGAGE
18 CORPORATION, and DOES 1 through 10
19 inclusive,

20 Defendants.
21 _____/

22 This matter came before the Court upon motion by Plaintiffs
23 ARMANDO PLASCENCIA and MELANIA PLASCENCIA for class certification,
24 pursuant to Rule 23 of the Federal Rules of Civil Procedure; and
25 the Court having reviewed all submissions of the parties; and
26 having conducted a lengthy hearing on April 9, 2009; and for the
27 reasons stated in its Order Granting in Part Plaintiffs' Motion for
28 Class Certification issued August 21, 2009 [Doc. No. 178] which is
fully incorporated by reference here;

IT IS HEREBY ORDERED that Plaintiffs' motion for class
certification pursuant to Rule 23(b)(3) of the Federal Rules of
Civil Procedure, respecting their claims asserted under

1 California's Unfair Competition Law (UCL), Cal. Bus. & Prof. Code
2 §§ 17200, et seq., and under the California common law of fraud is
3 GRANTED; and it is further ORDERED that the Class shall be defined
4 as follows:

5 UCL Claim:

6 All individuals who, between August 29, 2003
7 and the date that Notice is mailed to the
8 Class, have or have had a Monthly Option ARM
9 loan that: (a) was originated by LENDING 1ST
10 MORTGAGE and then sold or owned by LENDING 1ST
11 MORTGAGE or EMC MORTGAGE CORPORATION; (b) was
12 secured by real property in the United States;
13 and (c) was originated or otherwise approved by
14 Defendant LENDING 1ST MORTGAGE within the State
15 of California.

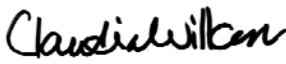
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17 Common Law Fraud Claim:

18 All individuals who, between August 29, 2003
19 and the date that Notice is mailed to the
20 Class, have or have had a Monthly Option ARM
21 loan that: (a) was originated by Lending First
22 and then sold or owned by LENDING 1ST MORTGAGE
23 or EMC MORTGAGE CORPORATION; (b) was secured by
24 real property in the United States; and (c) was
25 originated or otherwise approved by Defendant
26 LENDING 1ST MORTGAGE within the State of
27 California.
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1 It is further ORDERED that Plaintiffs ARMANDO PLASCENCIA and
2 MELANIA PLASCENCIA are appointed representatives of the above-
3 referenced Class; and that the law firms of Smoger & Associates,
4 Arborgast & Berns LLP, Seeger Weiss LLP, and Williams Cuker
5 Berezofsky are appointed as Class Counsel.

6
7 IT IS SO ORDERED.

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9 Dated: October 16, 2009



CLAUDIA WILKEN
United States District Judge