

## IN THE UNITED STATES DISTRICT COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARMANDO PLASCENCIA and MELANIA PLASCENCIA, individually and on behalf of all others similarly situated,

No. C 07-04485 CW  
ORDER DEFINING  
CLASSES

Plaintiffs,

v.

LENDING 1<sup>st</sup> MORTGAGE, LENDING 1<sup>st</sup> MORTGAGE, LLC, EMC MORTGAGE CORPORATION, and DOES 1 through 10 inclusive,

Defendants.

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This matter came before the Court upon motion by Plaintiffs ARMANDO PLASCENCIA and MELANIA PLASCENCIA for class certification, pursuant to Rule 23 of the Federal Rules of Civil Procedure; and the Court having reviewed all submissions of the parties; and having conducted a lengthy hearing on April 9, 2009; and for the reasons stated in its Order Granting in Part Plaintiffs' Motion for 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 1<sup>ST</sup>  
10 MORTGAGE and then sold or owned by LENDING 1<sup>ST</sup>  
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 1<sup>ST</sup> 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 1<sup>ST</sup> 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 1<sup>ST</sup> 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.

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7        IT IS SO ORDERED.

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9        Dated: October 16, 2009

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*Claudia wilken*

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CLAUDIA WILKEN  
United States District Judge