

1                                    IN THE UNITED STATES DISTRICT COURT  
2                                    FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 ARMANDO PLASCENCIA; and MELANIA  
5 PLASCENCIA, individually and on  
6 behalf of all others similarly  
7 situated,

8                                    Plaintiffs,

9                                    v.

10 LENDING 1ST MORTGAGE; LENDING 1ST  
11 MORTGAGE, LLC; EMC MORTGAGE  
12 CORPORATION; and DOES 1-10,

13                                    Defendants.

No. C 07-4485 CW

ORDER REGARDING  
EMC'S MOTION TO  
FILE UNDER SEAL  
(Docket No. 362)

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Defendant EMC Mortgage LLC, formerly known as EMC Mortgage Corporation, moves to file under seal the declaration of LeAnn Pedersen Pope offered in support of EMC's omnibus motion to decertify the class, motion for summary judgment and opposition to Plaintiffs Armando and Melania Plascencia's motion for partial summary judgment and its motions to exclude the testimony of Leonard Lyons and Jonathan Macey. EMC seeks to file the Pope declaration, including all attached exhibits, under seal in its entirety.

In EMC's declaration in support of its motion to seal, it states that it has filed separately in the public record the declaration of Susan Miller Overbey, to which it has attached redacted versions of the same exhibits attached to the Pope declaration. Overbey Decl. in Supp. of Mot. to Seal ¶ 7. See Docket No. 359.

1 Civil Local Rule 79-5(c) provides that, when a party seek to  
2 file a portion of a document under seal, counsel must, among other  
3 things, lodge a chambers copy of the entire document "with the  
4 sealable portions identified." Civil Local Rule 79-5(c)(4). See  
5 also Civil Local Rule 79-5(c)(3) ("The sealable portions of the  
6 document must be identified by notations or highlighting within  
7 the text.").

8 EMC has failed to indicate in the chambers copy that it has  
9 submitted which portions of the documents it seeks to file under  
10 seal. It appears to request the Court to compare the exhibits  
11 attached to the Pope declaration to those attached to the Overbey  
12 declaration to discern which portions it seeks to seal and what  
13 those portions contain. The Court notes that the Pope  
14 declaration, including its exhibits, appears to total more than  
15 fifteen hundred pages. Further, the exhibits attached to the Pope  
16 declaration are not given the same exhibit letters as the  
17 corresponding exhibits attached to the Overbey declaration.  
18 Because a page-by-page comparison of the exhibits attached to the  
19 two declarations would require a large and unnecessary expenditure  
20 of judicial resources, the Court declines to engage in this task  
21 and will not excuse EMC's violation of the Civil Local Rules.

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Accordingly, by 12:00 p.m. two court days after the date of this Order, EMC shall submit a chambers copy of the Pope declaration and exhibits, with the same exhibit letters as in the Overbey declaration. In this chambers copy, EMC shall highlight the portions of the text that it seeks to file under seal. Failure to comply with the terms of the Order will result in the denial of the motion to seal.

IT IS SO ORDERED.

Dated: 8/27/2012

  
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CLAUDIA WILKEN  
United States District Judge