

1 **BERNS WEISS LLP**
 Jeffrey K. Berns (SBN 131351)
 2 jberns@bernsweiss.com
 20700 Ventura Boulevard, Suite 140
 3 Woodland Hills, CA 91364
 Tel.: (818) 961-2000
 4 Fax: (818) 999-1500

WILLIAMS CUKER BEREZOFSKY
 Mark R. Cuker (admitted *pro hac vice*)
 mcuker@wcblegal.com
 1515 Market Street, Suite 1300
 Philadelphia, PA 19102
 Tel.: (215) 557-0099
 Fax: (215) 557-0673

5 - and -

6 Lee A. Weiss (admitted *pro hac vice*)
lweiss@bernsweiss.com
 7 626 RXR Plaza
 Uniondale, NY 11556
 8 Tel.: (516) 222-2900
 9 Fax: (818) 999-1500

SMOGER & ASSOCIATES
 Gerson H. Smoger (SBN 79196)
gerson@texasinjurylaw.com
 Steven M. Bronson (SBN 246751)
bronsonlaw@gmail.com
 3175 Monterey Blvd
 Oakland, CA, 94602-3560
 Tel.: (510) 531-4529
 Fax: (510) 531-4377

10 *[Additional counsel listed on signature page]*

11 Attorneys for Plaintiffs and the Class

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

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

17 Plaintiffs,

18 v.

19 LENDING 1ST MORTGAGE, LENDING 1ST
 20 MORTGAGE LLC, EMC MORTGAGE
 CORPORATION, and DOES 1 through 10
 21 inclusive,

22 Defendants.

Case No. 4:07-cv-04485-CW

CLASS ACTION

**STIPULATION TO CONTINUE HEARING
 ON PLAINTIFFS, LENDING 1ST
 MORTGAGE, AND LENDING 1ST LLC'S
 JOINT MOTION FOR PRELIMINARY
 APPROVAL OF PARTIAL CLASS ACTION
 SETTLEMENT**

Judge: Hon. Claudia Wilken
 Courtroom: 2, 4th Floor

Current Date: November 15, 2012
 Time: 2:00 p.m.

Stipulated Date: December 6, 2012
 Time: 2:00 p.m.

Complaint Filed: August 29, 2007

1 Pursuant to Federal Rule of Civil Procedure 6(b) and Local Rule 6-1(b), plaintiffs
2 Armando Plascencia and Melania Plascencia (“Plaintiffs”), defendants Lending 1st Mortgage and
3 Lending 1st Mortgage LLC (collectively “Lending 1st”), and defendant EMC Mortgage
4 Corporation (“EMC”) (together, with Plaintiffs and Lending 1st, the “Parties”), through their
5 undersigned counsel, stipulate as follows:

6 WHEREAS, on September 10, 2012, Plaintiffs and Lending 1st filed a Joint Motion for
7 Preliminary Approval of Partial Class Action Settlement (“Motion”) (Dkt. No. 404);

8 WHEREAS, on September 24, 2012, EMC filed their Opposition to the Motion (Dkt. No.
9 407);

10 WHEREAS, on October 15, 2012, Plaintiffs and Lending 1st filed their Joint Reply to
11 EMC’s Opposition (Dkt. No. 413);

12 WHEREAS, the hearing on the Motion is set for November 15, 2012 at 2:00 p.m. before
13 this Court;

14 WHEREAS, Plaintiffs’ counsel, Lee A. Weiss, planned to attend the hearing, but is
15 recovering from the power outages caused by Hurricane Sandy and the second storm that hit New
16 York on November 8, 2012; and

17 WHEREAS, Lending 1st and EMC have agreed to Plaintiffs’ request for a continuance of
18 the hearing on the Motion and would not be prejudiced by this continuance;

19 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, between Plaintiffs,
20 by their undersigned counsel, Defendants Lending 1st, by their undersigned counsel, and
21 Defendant EMC, by its undersigned counsel, that, subject to the approval of this Court:

22 (1) The hearing on the Joint Motion for Preliminary Approval of Partial Class Action
23 Settlement be continued to December 6, 2012 at 2:00 p.m.; and

24 (2) This Stipulation may be executed in counterparts and a facsimile, PDF, or electronic
25 signature shall be deemed to be, and shall have the same force and effect as, an original
26 signature.

27 Respectfully submitted,

1 Dated: November 13, 2012

/s/ Lee A. Weiss

Lee A. Weiss (admitted *pro hac vice*)
lweiss@bernsweiss.com
BERNS WEISS LLP
626 RXR Plaza
Uniondale, NY 11556
Tel.: (516) 222-2900
Fax: (818) 999-1500

- and -

Jeffrey K. Berns (SBN 131351)
jberns@bernsweiss.com
BERNS WEISS LLP
20700 Ventura Blvd., Suite 140
Woodland Hills, CA 91364
Tel.: (818) 961-2000
Fax: (818) 999-1500

J. Mark Moore (SBN 180473)
mark@spiromoore.com
SPIRO MOORE LLP
11377 W. Olympic Blvd., 5th Floor
Los Angeles, CA 90064
Tel.: (310) 235-2468
Fax: (310) 235-2456

Mark R. Cuker (admitted *pro hac vice*)
mcuker@wcblegal.com
WILLIAMS CUKER BEREZOFSKY
1515 Market Street, Suite 1300
Philadelphia, PA 19102
Tel.: (215) 557-0099
Fax: (215) 557-0673

David M. Arbogast (SBN 167571)
david@arbogastbowen.com
Chumahan B. Bowen (SBN 238168)
cbowen@arbogastbowen.com
ARBOGAST BOWEN LLP
11400 W. Olympic Blvd., 2nd Floor
Los Angeles, CA 90064
Tel.: (310) 477-7200
Fax: (310) 943-2309

Gerson H. Smoger (SBN 79196)
Gerson@texasinjurylaw.com
Steven M. Bronson (SBN 246751)
steven.bronson@gmail.com
SMOGER & ASSOCIATES
3175 Monterey Blvd
Oakland, CA, 94602-3560
Tel.: (510) 531-4529
Fax: (510) 531-4377

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

Christopher A. Seeger (admitted *pro hac vice*)
Cseeger@seegerweiss.com
SEEGER WEISS LLP
77 Water Street, 26th Floor
New York, NY 10005
Tel.: (212) 584-0700

- and -

Jonathan Shub (SBN 237708)
jshub@seegerweiss.com
SEEGER WEISS LLP
1818 Market Street, 13th Floor
Philadelphia, PA 19103
Tel.: (610) 453-6551

Attorneys for Plaintiffs and the Class

Dated: November 13, 2012

/s/ Stephen R. Meinertzhagen
Stephen R. Meinertzhagen (Admitted *Pro Hac Vice*)
smeinertzhagen@burkelaw.com
LeAnn Pedersen Pope (Admitted *Pro Hac Vice*)
lpope@burkelaw.com
Susan Miller Overbey (Admitted *Pro Hac Vice*)
soverbey@burkelaw.com
**BURKE, WARREN, MACKAY &
SERRITELLA, P.C.**
330 North Wabash, 22nd Floor
Chicago, Illinois 60611
Tel.: 312-840-7000
Fax: 312-840-7900

Gail E. Lees (SBN 90363)
grees@gibsondunn.com
Theodore J. Boutrous, Jr. (SBN 132099)
tboutrous@gibsondunn.com
Christopher Chorba (SBN 216692)
cchorba@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, California 90071-3197
Tel.: (213) 229-7000
Fax: (213) 229-7520

Attorneys for Defendants:
EMC MORTGAGE LLC, formerly known as EMC
MORTGAGE CORPORATION

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

Dated: November 13, 2012

/s/ Mark S. Tratten
Mark S. Tratten (SBN 119330)
mtratten@ericksenarbuthnot.com
ERICKSEN ARBUTHNOT
100 Howe Avenue, Suite 110 South
Sacramento, CA 95825
Tel.: (916) 483-5181

Attorneys for Defendants:
LENDING 1ST MORTGAGE AND LENDING 1ST
MORTGAGE LLC

1 **BERNS WEISS LLP**
Jeffrey K. Berns (SBN 131351)
2 jberns@bernsweiss.com
20700 Ventura Boulevard, Suite 140
3 Woodland Hills, CA 91364
Tel.: (818) 961-2000
4 Fax: (818) 999-1500

WILLIAMS CUKER BEREZOFSKY
Mark R. Cuker (admitted *pro hac vice*)
mcuker@wcblegal.com
1515 Market Street, Suite 1300
Philadelphia, PA 19102
Tel.: (215) 557-0099
Fax: (215) 557-0673

5 - and -

6 Lee A. Weiss (admitted *pro hac vice*)
lweiss@bernsweiss.com
7 626 RXR Plaza
Uniondale, NY 11556
8 Tel.: (516) 222-2900
9 Fax: (818) 999-1500

SMOGER & ASSOCIATES
Gerson H. Smoger (SBN 79196)
gerson@texasinjurylaw.com
Steven M. Bronson (SBN 246751)
bronsonlaw@gmail.com
3175 Monterey Blvd
Oakland, CA, 94602-3560
Tel.: (510) 531-4529
Fax: (510) 531-4377

10 *[Additional counsel listed on signature page]*

11 Attorneys for Plaintiffs and the Class

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION

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

17 Plaintiffs,

18 v.

19 LENDING 1ST MORTGAGE, LENDING 1ST
20 MORTGAGE LLC, EMC MORTGAGE
CORPORATION, and DOES 1 through 10
inclusive,

21 Defendants.

Case No. 4:07-cv-04485-CW

CLASS ACTION

**DECLARATION OF LEE A. WEISS IN
SUPPORT OF STIPULATION TO
CONTINUE HEARING ON PLAINTIFFS,
LENDING 1ST MORTGAGE, AND
LENDING 1ST LLC'S JOINT MOTION
FOR PRELIMINARY APPROVAL OF
PARTIAL CLASS ACTION SETTLEMENT**

Judge: Hon. Claudia Wilken
Courtroom: 2, 4th Floor

Current Date: November 15, 2012
Time: 2:00 p.m.

Stipulated Date: December 6, 2012
Time: 2:00 p.m.

Complaint Filed: August 29, 2007

22 I, Lee A. Weiss, declare the following pursuant to 28 U.S.C. §1746:

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

ORDER

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

(1) The hearing on the Joint Motion for Preliminary Approval of Partial Class Action
Settlement is continued to December 6, 2012 at 2:00 p.m.

IT IS SO ORDERED

Dated: November 14, 2012



HON. CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE