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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **OAKLAND DIVISION**

12  
13 IRWIN UNION BANK AND TRUST  
14 COMPANY AND IRWIN HOME EQUITY  
CORPORATION,

15 Plaintiffs,

16 v.

17 FREEDOM MORTGAGE COMPANY,

18 Defendants.  
19  
20  
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CASE NO. 4:08-cv-00472-PJH

**JOINT STATUS REPORT**

Action filed: January 22, 2008

Assigned to The Hon. Phyllis J. Hamilton  
Courtroom: 3

22 Pursuant to the Court's Order dated September 2, 2011 (Dkt. No. 39), Irwin Home Equity  
23 Corporation ("IHE") and Freedom Mortgage Corporation ("Freedom") respectfully submit this  
24 further joint status report.

25 1. The parties' last status report was filed on June 24, 2011 (Dkt. No. 38). In that  
26 report, IHE stated that it would circulate a preliminary draft settlement agreement by July 27,  
27 2011. IHE reports that on July 8, 2011, a non-party affiliate of IHE, Irwin Mortgage Corporation  
28 ("IMC"), filed a Chapter 11 bankruptcy petition in the Southern District of Ohio. Although IMC

1 is not a party to the instant action, the parties' objective has always been to reach a global  
2 settlement that would resolve all of the pending actions, one of which includes IMC.  
3 Unfortunately, IMC's bankruptcy filing has delayed progress towards this objective. IHE's  
4 understanding is that IMC is not yet in a position to consider a settlement, and such settlement, if  
5 approved by IMC would be subject to further approval by the bankruptcy court. Nevertheless, to  
6 demonstrate good faith, IHE has circulated two versions of a draft settlement agreement to  
7 Freedom for review and comment, with the understanding that the drafts have not yet been  
8 approved by the board or approving body of any party.

9       2.       Based upon its investigation to date, IHE continues to believe that the consent and  
10 participation of the FDIC in its role as receiver ("FDIC-R") for plaintiff Irwin Union Bank and  
11 Trust Company ("IUBT") is necessary to achieve a global settlement of all disputes and claims  
12 between the Irwin entities and Freedom, including not only the instant action, but also the matter  
13 captioned *Freedom Mortgage Corp. v. Irwin Financial Corp., et al.*, Case No. 3:09-cv-01399-  
14 MEJ (N.D. Cal.), as well as the arbitration proceeding captioned *Freedom Mortgage Company v.*  
15 *Irwin Union Bank and Trust Company and Irwin Home Equity Corporation*, Case No.  
16 MX080300205058323 (National Arbitration Forum).

17       3.       Although IHE has continued to communicate with inside counsel for the FDIC-R  
18 concerning its participation in this action, as well as regarding the proposed settlement, the  
19 FDIC's in-house counsel has represented that the FDIC-R believes that because it is not a party  
20 to this action, it need not participate in this action or in any settlement. IHE is awaiting a further  
21 response from the FDIC.

22       4.       IHE and Freedom remain interested in attempting to resolve this litigation and the  
23 other pending matters. Given the position of the FDIC-R, and IMC's bankruptcy filing, the  
24 parties seek additional time to determine whether a satisfactory settlement is possible.

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1           5.       Based on the foregoing, IHE and Freedom therefore request that the Court set this  
2 matter for further status review in March 2012.

3 Dated: October 31, 2011

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

4  
5 By:       /s/ Nicole M. Healy        
      Nicole M. Healy

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Counsel for Irwin Home Equity Corporation

12 Dated: October 31, 2011

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Counsel for Freedom Mortgage Corporation

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**ATTESTATION**

I, Nicole M. Healy, am the ECF User whose identification and password are being used to file this Joint Status Report. In compliance with General Order 45.X.B, I hereby attest that Jason C. Curliano has concurred in this filing.

Dated: October 31, 2011

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By:  /s/ Nicole M. Healy  
Nicole M. Healy

A CASE MANAGEMENT CONFERENCE WILL BE HELD ON MARCH 29, 2012. A JOINT CASE MANAGEMENT CONFERENCE STATEMENT SHALL BE FILED BY MARCH 22, 2012.

