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9 Attorneys for Plaintiff  
 10 Mortgage Electronic Registration Systems, Inc.,  
 11 a Delaware corporation

12 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**  
 14 **SAN JOSE DIVISION**

15 **MORTGAGE ELECTRONIC**  
 16 **REGISTRATION SYSTEMS, INC.,**  
 17 **Plaintiff,**

18 **v.**

19 **THERESA G. WHARTON, et al.,**  
 20 **Defendant.**

) **CASE NO. 08-05152-JF**  
 )  
 ) **STIPULATION AS TO EQUITABLE**  
 ) **SUBROGATION OF THE INTERESTS**  
 ) **OF THE UNITED STATES AND**  
 ) **PROPOSED ORDER OF DISMISSAL**  
 ) **OF ACTION AS AGAINST THE**  
 ) **THE UNITED STATES**  
 )  
 )  
 )

21 It is hereby stipulated by and between plaintiff Mortgage Electronic Registration  
 22 Systems, Inc. (“MERS”) and defendant the United States of America (the “United States”), by  
 23 and through their respective counsel, as follows:

24 1. That pursuant to the doctrine of equitable subrogation, plaintiff MERS’ interest in  
 25 the real property commonly known as 645 Buena Vista Avenue, Gilroy, California and legally  
 26 described in Exhibit 1 attached hereto (the “Subject Property”) in the amount of \$180,766.41 is  
 27 prior and superior to the interests of defendant United States.

28 2. Based on the foregoing, defendant United States subordinates its interest to  
 plaintiff MERS’ interest in the Subject Property in the amount set out above and the action is

1 dismissed as against defendant United States, with each party to bear its own costs and attorneys'  
2 fees.

3 JOSEPH P. RUSSONIELLO  
4 United States Attorney

5  
6 Dated: August 11, 2009

7 /s/ Blake D. Stamm  
8 BLAKE D. STAMM  
9 Assistant United States Attorney  
10 Tax Division

11 Dated: August 12, 2009

12 STEYER LOWENTHAL BOODROOKAS  
13 ALVAREZ & SMITH LLP

14 By: /s/ Lucas E. Gilmore  
15 Jeffrey H. Lowenthal  
16 Lucas E. Gilmore  
17 Attorneys for Plaintiff  
18 Mortgage Electronic Registration Systems,  
19 Inc., a Delaware corporation

20 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

21  
22  
23 Dated: 8/13/09

24   
25 THE HONORABLE JEREMY FOGEL  
26 United States District Court Judge