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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
DIVISION**

NERI URBINA and LEONILA URBINA,  
on behalf of themselves and  
all others similarly situated,

Plaintiffs,

v.

Case No. \_\_\_\_\_

FREEDOM MORTGAGE CORPORATION,

Defendant.

**COMPLAINT**

Plaintiffs, Neri Urbina and Leonila Urbina, on behalf of themselves and all others similarly situated, allege breach of contract and violations of the Rosenthal Fair Debt Collection Practices Act (“Rosenthal Act”) against Freedom Mortgage Corporation (“Defendant” or “FMC”).

1. Borrowers in California struggle enough to make their regular mortgage payments without getting charged extra, illegal fees when they try to pay by phone or online (“Pay-to-Pay fees”). Federal and state debt collection laws strictly prohibit these charges unless expressly agreed to by the borrower, but these Pay-to-Pay fees are found nowhere in any standard deed of trust. Here, FMC charges borrowers between \$10.00–15.00 for making their mortgage payments online or over the phone. On information and belief, the vast majority of that fee is pure profit for FMC.

1 2. FMC services mortgages across the country and must know the terms of the  
2 standard loan agreements it services, none of which expressly allow Pay-to-Pay fees as a type of  
3 service fee that FMC can charge.

4 3. Further, the Urbinas' mortgage is guaranteed by the Federal Housing  
5 Administration ("FHA"). The FHA rules and regulations, which are incorporated by reference  
6 into FHA-insured mortgages, prohibit all FHA-approved servicers, such as FMC, from charging  
7 any fee to the borrowers that is not expressly allowed. And even for fees that are expressly  
8 allowed, FHA rules permit the mortgage servicer to pass along to the borrower only its out-of-  
9 pocket costs for providing the services.

10 4. FMC's practice of charging and profiting from excessive Pay-to-Pay fees violates  
11 the Rosenthal Fair Debt Collection Practices Act, and therefore the California Unfair  
12 Competition Law, and breaches the provisions of every FHA-insured mortgage it services. FMC  
13 must be held accountable for assessing these excessive fees to its borrowers.  
14

#### 15 **JURISDICTION AND VENUE**

16 5. This Court has personal jurisdiction over FMC because it conducts business in  
17 California and commits torts in California, as described in this Complaint.  
18

19 6. As alleged above, minimal diversity exists between the parties in this action.  
20 Furthermore, on information and belief, the amount in controversy, exclusive of costs and  
21 interest, exceeds \$5,000,000.00.  
22

23 7. FMC is one of the largest mortgage lenders in the United States and, more  
24 specifically, one of the largest originators and servicers of FHA-insured mortgages. The Classes  
25 in this lawsuit are believed to consist of hundreds of thousands of members. To date, Plaintiffs'  
26 have incurred no less than \$45.00 in improper Pay-to-Pay fees. Thus, the amount in controversy  
27  
28

1 in this action, exclusive of costs and interest, exceeds the amount-in-controversy requirement of  
2 28 U.S.C. § 1332(d).

3 8. Venue is proper because the cause of action accrued here.

4 **PARTIES**

5 9. Plaintiffs Neri and Leonila Urbina are natural persons residing in California who  
6 have a mortgage loan that was serviced by FMC on their home located in California.

7  
8 10. Defendant Freedom Mortgage Corporation is a corporation with a principal place  
9 of business in Mount Laurel, New Jersey. Defendant is one of the nation's leading mortgage  
10 lending and servicing companies.

11 **APPLICABLE LAW**

12 **FDCPA**

13 11. The purpose of the FDCPA is “to eliminate abusive debt collection practices . . .  
14 and to promote consistent State action to protect consumers against debt collection abuses.” 15  
15 U.S.C. § 1692.

16  
17 12. The FDCPA prohibits debt collectors from using “any false, deceptive, or  
18 misleading representation or means in connection with the collection of any debt,” which  
19 includes the false representation of “the character, amount, or legal status of any debt.” *Id.* §  
20 1692e.

21 13. The FDCPA also prohibits debt collectors from engaging in “unfair or  
22 unconscionable means to collect or attempt to collect any debt,” including “the collection of any  
23 amount . . . unless such amount is expressly authorized by the agreement creating the debt or  
24 permitted by law.” *Id.* § 1692f.

25  
26 14. The FDCPA creates a private right of action under 15 U.S.C. § 1692k.

1 15. The FDCPA defines “consumer” as “any natural person obligated or allegedly  
2 obligated to pay any debt.” *Id.* § 1692a(3).

3 16. The FDCPA defines “debt collector” as “any person who uses any instrumentality  
4 of interstate commerce or the mails in any business the principal purpose of which is the  
5 collection of any debts, or who regularly collects or attempts to collect . . . debts owed . . . or  
6 asserted to be owed or due another.” *Id.* § 1692a(6).

7 17. The FDCPA defines “communication” as “the conveying of information  
8 regarding a debt directly or indirectly to any person through any medium.” *Id.* § 1692a(2).

9 18. The FDCPA defines “debt” as “any obligation or alleged obligation of a consumer  
10 to pay money arising out of a transaction . . . [that is] primarily for personal, family, or  
11 household purposes.” *Id.* § 1692a(5).

12  
13 **ROSENTHAL ACT**

14 19. The purpose of the Rosenthal Fair Debt Collection Practices Act, located at Cal.  
15 Civ. Code § 1788 et seq., is to “prohibit debt collectors from engaging in unfair or deceptive acts  
16 or practices in the collection of consumer debts[.]” Cal. Civ. Code § 1788.1(b). The Rosenthal  
17 Act is “a remedial statute [that] should be interpreted broadly in order to effectuate its purpose.”  
18 *See People ex rel. Lungren v. Superior Court*, 14 Cal.4th 294, 313, 58 Cal.Rptr.2d 855, 926 P.2d  
19 1042 (Cal. 1996) (“civil statutes for the protection of the public are, generally, broadly construed  
20 in favor of that protective purpose.”); *Komarova v. National Credit Acceptance, Inc.*, 95  
21 Cal.Rptr.3d 880, 892, 175 Cal.App.4th 324, 340 (Cal.App. 1 Dist. 2009).

22  
23 20. The Rosenthal Act defines “debt collector” as “any person who, in the ordinary  
24 course of business, regularly, on behalf of himself or herself or others, engages in debt  
25 collection.” Cal. Civ. Code §1788.2(c).



1           21.     The Rosenthal Act defines a “consumer debt” as “money, property or their  
2 equivalent, due or owing or alleged to be due or owing from a natural person by reason of a  
3 consumer credit transaction.” Cal. Civ. Code §1788.2(f).

4           22.     The Rosenthal Act defines “consumer credit transaction” as “a transaction  
5 between a natural person and another person in which property, services or money is acquired on  
6 credit by that natural person from such other person primarily for personal, family, or household  
7 purposes.” Cal. Civ. Code §1788.2(e).

8           23.     The Rosenthal Act makes it illegal for any entity covered by its terms to violate  
9 the federal FDCPA. Cal. Civ. Code § 1788.17. By violating the FDCPA, FMC also violated the  
10 Rosenthal Act.

11           24.     Moreover, the Rosenthal Act prohibits “[c]ollecting or attempting to collect from  
12 the debtor the whole or any part of the debt collector's fee or charge for services rendered, or  
13 other expense incurred by the debt collector in the collection of the consumer debt, except as  
14 permitted by law.” Cal. Civ. Code § 1788.14(b).

15           25.     The Rosenthal Act also makes it illegal to represent that consumer debt “may be  
16 increased by the addition of . . . charges if, in fact, such fees or charges may not legally be added  
17 to the existing obligation.” Cal. Civ. Code § 1788.13(e).

18  
19  
20 **FHA SERVICING RULES**

21  
22           26.     The Federal Housing Administration, an agency within the United States  
23 Department of Housing and Urban Development (“HUD”), “provides mortgage insurance on  
24 loans made by FHA-approved lenders throughout the United States and its territories.”<sup>1</sup> The  
25

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27  
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<sup>1</sup> HUD.gov – The Federal Housing Administration,  
[https://www.hud.gov/program\\_offices/housing/fhahistory](https://www.hud.gov/program_offices/housing/fhahistory) (last visited on October 2, 2019).

1 FHA “is one of the largest insurers of mortgages in the world, insuring more than 46 million  
2 mortgages since its inception in 1934.”<sup>2</sup>

3 27. The FHA provides incentives to private lenders to make loans to would-be  
4 homebuyers whose creditworthiness and inability to contribute a significant down payment make  
5 it difficult for them to obtain a home loan on reasonable terms.

6 28. To achieve that goal, “FHA mortgage insurance provides lenders with protection  
7 against losses if a property owner defaults on their mortgage. The lenders bear less risk because  
8 FHA will pay a claim to the lender for the unpaid principal balance of a defaulted mortgage.”<sup>3</sup>

9 29. FMC is an FHA-approved lender.

10 30. As an FHA-approved lender, FMC must annually “acknowledge that the  
11 Mortgagee is now, and was at all times throughout the Certification Period, subject to all  
12 applicable HUD regulations, Handbooks, Guidebooks, Mortgagee Letters, Title I Letters,  
13 policies and requirements, as well as Fair Housing regulations and laws including but not limited  
14 to 24 CFR § 5.105, Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) and Title VI  
15 of the Civil Rights Act of 1964.”<sup>4</sup>

16 31. HUD’s servicing requirements restrict the fees and charges that a servicer of  
17 FHA-insured loans may assess to the typically lower-income FHA borrower. HUD Handbook  
18 4000.1: *Single-Family Housing Policy*, <https://www.hud.gov/sites/documents/40001HSGH.PDF>  
19 (last accessed by counsel on October 2, 2019) (the “HUD Handbook”).  
20  
21  
22  
23  
24

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25 <sup>2</sup> *Id.*

26 <sup>3</sup> *Id.*

27 <sup>4</sup> *See*, FHA Lender Annual Certifications: Supervised and Nonsupervised Mortgagees, Changes  
28 Implemented 8/1/2016,  
[https://www.hud.gov/sites/documents/SFH\\_COMP\\_SUPERNONSUPER.PDF](https://www.hud.gov/sites/documents/SFH_COMP_SUPERNONSUPER.PDF) (last visited on  
October 2, 2019).

1 32. Specifically, the HUD Handbook defines “Allowable Fees and Charges a[s] those  
2 costs associated with the servicing of the Mortgage that are permitted to be charged to the  
3 Borrower,” and defines “Prohibited Fees and Charges a[s] those costs associated with the  
4 servicing of the Mortgage that may not be charged to the Borrower.” HUD Handbook §  
5 III.A.1.f.i.

6 33. As explained in a previous HUD Handbook chapter, which remains in effect, a  
7 “mortgagee may be in violation of HUD regulations should it be collecting a fee (regardless of  
8 when the fee is actually collected) for,” among other things, “a service which is not specifically  
9 authorized in” the HUD Handbook. HUD Handbook to Lenders 4330.1 REV-5, chapter 4-1.B,  
10 <https://www.hud.gov/sites/documents/43301C4HSGH.PDF>, (last accessed by counsel on  
11 October 2, 2019).

12 34. Nowhere in the HUD Handbook are Pay-to-Pay fees listed as a fee that a servicer  
13 may charge to a borrower.  
14

15 35. Even were a servicer to receive authorization to charge a Pay-to-Pay fee, the  
16 charge to the borrower must be “based on actual cost of the work performed or actual out-of-  
17 pocket expenses”—in short, the servicer cannot charge such fees to create a profit center. HUD  
18 Handbook § III.A.1.f.ii.(A).  
19

20 36. Based upon information and belief, the Pay-to-Pay fees that FMC charges  
21 borrowers exceed its out-of-pocket costs.  
22

### 23 **FACTUAL ALLEGATIONS**

24 37. On or around August 25, 2016, the Urbinas took out a mortgage with FMC to  
25 finance their home in Bakersfield, Kern County, California.

26 38. The Urbinas’ FMC loan number is #####3962.  
27  
28

1 39. During the year 2017, the Urbinas made several monthly mortgage payments  
2 online or over the phone.

3 40. FMC charged the Urbinas an additional fee of \$15.00 each time they made their  
4 monthly mortgage payment online. This fee is not authorized by their Deed of Trust.

5 41. On information and belief, which can be confirmed by an examination of  
6 Defendant's records, FMC pays a third party significantly less than it charges borrowers to  
7 process online and phone payment transactions ("Pay-to-Pay transactions").  
8

9 42. FMC's demand for payment of Pay-to-Pay fees is a breach of the Deed of Trust,  
10 which does not delineate Pay-to-Pay fees as one of the many charges that the lender, or loan  
11 servicer acting on behalf of the lender, may charge. There is simply no provision in the  
12 mortgage that allows FMC to collect Pay-to-Pay fees.

13 43. Indeed, Pay to Pay fees are prohibited by the Urbinas' Deed of Trust, which  
14 permits FMC to "collect fees and charges authorized by the Secretary [of Housing and Urban  
15 Development]." Ex. A at 11, ¶ 13.  
16

17 44. As alleged above, FHA rules do not permit collecting Pay-to-Pay fees. Even if  
18 such fees were allowed, FHA rules permit passing along to borrowers only the lender's actual  
19 costs for offering the service. By collecting, and profiting from, Pay-to-Pay fees, FMC breached  
20 Paragraph 13 of the Urbinas' Deed of Trust.

21 45. FMC's demand for payment of Pay-to-Pay fees is also a direct breach of  
22 Paragraph 15 of the Deed of Trust: "This Security Instrument shall be governed by federal law  
23 and the law of the jurisdiction in which the Property is located." *Id.* at ¶ 15. Federal debt  
24 collection law prohibits the collection of any amount incidental to the principal obligation unless  
25 that amount is *expressly* stated in the loan agreement. *See* 15 U.S.C. § 1692f(1) (making  
26 unlawful the "collection of any amount (including any interest, fee, charge, or expense incidental  
27  
28

1 to the principal obligation) **unless such amount is expressly authorized by the agreement**  
2 **creating the debt or permitted by law.**” (emphasis added). FMC’s collection of Pay-to-Pay  
3 fees violated both the FDCPA and the Rosenthal Act.

4 46. FMC’s demands for payment of Pay-to-Pay fees is a direct breach of Paragraph  
5 13 of its Deed of Trust, “Uniform Covenants” section, stating that lender may not charge fees  
6 prohibited by “Applicable Law.” The Agreement defines “Applicable Law” in Paragraph J as  
7 “all controlling applicable federal, state and local statutes, regulations, ordinances and  
8 administrative rules and orders (that have the effect of law) as well as all applicable final, non-  
9 appealable judicial opinions.” *See* Exhibit A, ¶ 13.

11 47. By charging the Pay-to-Pay fees, FMC has breached the “Applicable Law”  
12 provision of its Deed of Trust.

13 48. By violating these provisions of its form contract, FMC has breached its contract  
14 on a class-wide basis.

15 49. Prior to filing this Complaint, the Urbinas made a written pre-suit demand upon  
16 FMC.

17 50. FMC was given a reasonable opportunity to cure its breaches described herein but  
18 failed to do so.

19  
20 **CLASS REPRESENTATION ALLEGATIONS**

21  
22 51. Plaintiffs, Neri Urbina and Leonila Urbina, bring this action under Fed. R. Civ. P.  
23 23(b)(3) on behalf of the following class of persons, subject to modification after discovery and  
24 case development:

25  
26 All persons with a California address who paid a fee to FMC for making a loan  
27 payment by telephone, IVR, or the internet during the applicable statutes of  
28 limitations for Plaintiffs’ claims through the date a class is certified.

1  
2 52. Class members are identifiable through Defendant's records and payment  
3 databases.

4 53. Excluded from the Class are the Defendant; any entities in which it has a  
5 controlling interest; its agents and employees; and any Judge to whom this action is assigned and  
6 any member of such Judge's staff and immediate family.

7 54. Plaintiffs propose that they serve as class representatives.

8 55. Plaintiffs and the Class have all been harmed by the actions of Defendant.

9 56. Numerosity is satisfied. According to FMC's servicing records there are likely  
10 thousands of class members. Individual joinder of these persons is impracticable.

11 57. There are questions of law and fact common to Plaintiffs and to the Class,  
12 including, but not limited to:

- 13  
14 a. Whether FMC violated the FDCPA by charging Pay-to-Pay fees not due;  
15 b. Whether FMC violated the Rosenthal Act by charging Pay-to-Pay fees not due;  
16 c. Whether FMC violated general provisions of the California Unfair Practices Act  
17 (Cal. Bus. & Prof. Code § 17000 *et. seq.*) by charging Pay-to-Pay fees not due;  
18 d. Whether FMC breached its Deeds of Trust by charging Pay-to-Pay fees not due;  
19 e. Whether FMC violated FHA servicing requirements by charging Pay-to-Pay fees;  
20 f. Whether FMC's costs for Pay-to-Pay transactions are less than the amount it  
21 charged to Plaintiffs and Class members for Pay-to-Pay fees;  
22 g. Whether Plaintiffs and Class members are entitled to actual damages as a result of  
23 Defendant's actions;  
24 h. Whether Plaintiffs and Class members are entitled to an injunction and restitution;  
25  
26 and  
27  
28

1 i. Whether Plaintiffs and Class members are entitled to attorney's fees and costs.

2 58. Plaintiffs' claims are typical of the claims of Class members. FMC charged  
3 Plaintiffs Pay-to-Pay fees in the same manner as the Class members. FMC entered into a  
4 contract with a third party to process the Plaintiffs' and Class members' Pay-to-Pay transactions.  
5 Plaintiffs and Class members entered into uniform covenants in their Deeds of Trust that prohibit  
6 Pay-to-Pay fees. Alternatively, if FMC is allowed under the Deed of Trusts to charge for Pay-to-  
7 Pay transactions as a default-related fee, such amounts are capped for Plaintiffs and Class  
8 members at the actual amounts disbursed by FMC for processing the Pay-to-Pay transactions.  
9

10 59. Plaintiffs are adequate representatives of the Class because their interests do not  
11 conflict with the interests of the Class members and they will fairly and adequately protect the  
12 interests of the Class members. Plaintiffs have taken actions before filing this complaint, by  
13 hiring skilled and experienced counsel, and by making a pre-suit demand on behalf of Class  
14 members to protect the interests of the class.  
15

16 60. Plaintiffs have hired counsel that is skilled and experienced in class actions and is  
17 adequate class counsel capable of protecting the interests of the Class members.

18 61. Common questions of law and fact predominate over questions affecting only  
19 individual Class members, and a class action is the superior method for fair and efficient  
20 adjudication of this controversy.

21 62. The likelihood that individual members of the Class will prosecute separate  
22 actions is remote due to the time and expense necessary to conduct such litigation.  
23

24 **COUNT I: VIOLATION OF THE "UNLAWFUL" PRONG OF THE CALIFORNIA  
UNFAIR PRACTICES ACT § 17000, 17200 *et. seq.* ("UCL")**

25 63. Plaintiffs incorporate by reference paragraphs 1 through 62.

26 64. The UCL defines unfair business competition to include any "unlawful, unfair or  
27 fraudulent" act or practice. Cal. Bus. & Prof. Code § 17200.  
28

1           65.     A business act or practice is “unlawful” under the UCL if it violates any other law  
2 or regulation.

3           66.     The Rosenthal Act applies to FMC because it regularly engages in debt collection  
4 within California. Cal. Civ. Code § 1788.2(c).

5           67.     The Urbinas purchased their home by residential mortgage for personal, family,  
6 or household use and are persons who incurred a consumer debt. Cal. Civ. Code § 1788.2(e), (f).

7           68.     By collecting Pay-to-Pay fees from Plaintiffs and Class members, FMC collected  
8 an amount incidental to the principal obligation without the amount being expressly stated in the  
9 underlying loan agreement, in violation of the FDCPA.  
10

11           69.     The Rosenthal Act makes it illegal for any entity covered by it to violate the  
12 federal FDCPA. Cal. Civ. Code § 1788.17. By violating the FDCPA, FMC also violated the  
13 Rosenthal Act.

14           70.     Moreover, by collecting and attempting to collect Pay-to-Pay fees that were not  
15 otherwise permitted by law from Plaintiffs and Class members, FMC violated the Rosenthal  
16 Act’s prohibition against “[c]ollecting or attempting to collect from the debtor the whole or any  
17 part of the debt collector's fee or charge for services rendered, or other expense incurred by the  
18 debt collector in the collection of the consumer debt, except as permitted by law.” Cal. Civ. Code  
19 § 1788.14(b).  
20

21           71.     By assessing Pay-to-Pay fees, FMC represented to Plaintiff and Class members  
22 that their debts may be increased by the addition of the Pay-to-Pay fees, even though Pay-to-Pay  
23 fees may not be legally added to the existing obligation. These representations violated the  
24 Rosenthal Act’s prohibition against representing that a consumer debt “may be increased by the  
25 addition of . . . charges if, in fact, such fees or charges may not legally be added to the existing  
26 obligation.” Cal. Civ. Code § 1788.13(e).  
27  
28



1 72. FMC violated the Rosenthal Act because it retains for itself a portion of the Pay-  
2 to-Pay fees it collects from California borrowers.

3 73. As described in detail above, FMC's conduct described herein violates the  
4 FDCPA and the Rosenthal Act. These violations are sufficient to support Plaintiff's claim under  
5 the "unlawful" prong of the UCL.

6 74. Through its unlawful acts and practices, FMC has improperly obtained money  
7 from Plaintiffs and the Class members. As such, Plaintiffs request that the Court cause FMC to  
8 restore the money for Pay-to-Pay fees Plaintiffs and the Class members paid to FMC and to  
9 enjoin FMC from continuing its unlawful practices in the future. Otherwise, Plaintiffs and the  
10 Class members may be irreparably harmed and/or denied an effective and complete remedy if  
11 such an order is not granted.

12  
13 **COUNT II: BREACH OF CONTRACT**

14 75. Plaintiffs incorporate by reference paragraphs 1 through 74.

15 76. On or about August 25, 2016, FMC and Plaintiffs entered into a Deed of Trust  
16 with respect to their home.

17 77. FMC's demand for payment of Pay-to-Pay fees violates servicing guidelines for  
18 FHA-insured loans, which are incorporated by reference in Paragraph 13 of Plaintiffs' standard  
19 FHA-insured Deed of Trust. FHA rules prohibit charging Pay-to-Pay fees. And even if such fees  
20 were permitted, FHA rules limit FHA-approved lenders and services to passing along to  
21 borrowers only their out-of-pocket costs for providing such services. FMC's charging, and  
22 profiting from, Pay-to-Pay fees breaches Paragraph 13 of Plaintiffs' standard FHA-insured Deed  
23 of Trust.  
24  
25

26 78. Moreover, FMC's demand for payment of Pay-to-Pay fees is a direct breach of  
27 Paragraph 15 of the Deed of Trust: "This Security Instrument shall be governed by Federal law  
28

1 and the law of the jurisdiction in which the Property is located.” *See* Exhibit A, ¶ 15. Federal  
2 debt collection law prohibits the collection of any amount incidental to the principle obligation  
3 unless that amount is *expressly* stated in the loan agreement. *See* 15 U.S.C. § 1692f(1) (making  
4 unlawful the “collection of any amount (including any interest, fee, charge, or expense incidental  
5 to the principal obligation) **unless such amount is expressly authorized by the agreement**  
6 **creating the debt or permitted by law.**” (emphasis added). FMC’s collection of Pay-to-Pay  
7 fees violated both the FDCPA and Rosenthal Act.

8  
9 79. FMC’s demand for payment of Pay-to-Pay fees is a direct breach of Paragraph 15  
10 of its Deed of Trust, “Uniform Covenants” section, stating that lender may not charge fees  
11 prohibited by “Applicable Law.” The Agreement defines “Applicable Law” in Paragraph J as  
12 “all controlling applicable federal, state and local statutes, regulations, ordinances and  
13 administrative rules and orders (that have the effect of law) as well as all applicable final, non-  
14 appealable judicial opinions.” Ex. A, ¶ 15.

15  
16 80. By charging the Pay-to-Pay fees, FMC has violated the “Applicable Law”  
17 provision, as defined by its Deed of Trust, and thus breached its contract.

18  
19 81. Because these provisions are contained in the “Uniform Covenants” section, FMC  
20 has breached its contract on a class-wide basis.

21 82. The Urbinas and Class members have been harmed by these breaches.

### 22 **JURY DEMAND AND RESERVATION OF PUNITIVE DAMAGES**

23 83. Plaintiffs are entitled to and respectfully demand a trial by jury on all issues so  
24 triable.

25 84. Plaintiffs reserve the right to amend their Complaint and add a claim for punitive  
26 damages.

**RELIEF REQUESTED**

WHEREFORE Neri Urbina and Leonila Urbina respectfully request this Court enter judgment against Defendant for all of the following:

- a. That the Urbinas and all Class members be awarded actual damages, including but not limited to all fees improperly charged, and forgiveness of all amounts not properly owed;
- b. That FMC restore to the Urbinas and all Class members monies it improperly collected in Pay-to-Pay fees;
- c. That the Court enjoin Defendant from further violations of California law by charging illegal Pay-to-Pay fees to Plaintiffs, Class members, and the public;
- d. That the Urbinas and Class members be awarded costs and attorney’s fees; and
- e. That the Court enter an order that Defendant and its agents, or anyone acting on its behalf, are immediately restrained from altering, deleting or destroying any documents or records that could be used to identify class members;
- f. That the Court certify the Urbinas’ claims and all other persons similarly situated as class action claims under Rule 23 of the Federal Rules of Civil Procedure; and
- g. Such other and further relief as the Court may deem just and proper.

Dated: October 16, 2019

Respectfully Submitted,

/s/ Hank Bates

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# EXHIBIT A

Jon Lifquist, Assessor-Recorder  
Kern County Official Records

SM  
9/06/2016  
08:00 AM

Recorded Electronically by:  
553 WFG Lender Services

DOC#: 000216120785



000216120785

Stat Types: 1	Pages: 18
FEEs	74.00
TAXES	.00
OTHER	.00
PAID	74.00

Recording Requested By:  
Visionet Systems, Inc.  
183 Industry Drive, Pittsburgh, PA.15275

**Return To:**

Freedom Mortgage Corporation  
Attn: Final Documents  
P.O. Box 8001  
Fishers, IN 46038-8001

**Prepared By:**

Anthony Smith  
Freedom Mortgage Corporation  
907 Pleasant Valley Av Ste 3  
Mount Laurel, NJ 08054

APN #: 392-183-12-00

**Deed of Trust**

FHA Case No.

045-8732779-703

MIN: 1000730-0095713962-9

**DEFINITIONS**

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 10, 12, 17, 19 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 15.

- (A) **"Security Instrument"** means this document, which is dated August 25, 2016, together with all Riders to this document.
- (B) **"Borrower"** is Leonila R Urbina and Neri R Urbina Del Cid, wife and husband.

Borrower is the trustor under this Security Instrument.

- (C) **"Lender"** is Freedom Mortgage Corporation

Lender is a Corporation

Lender's address is Freedom Mortgage Corporation

- (D) "Trustee" is Specialized, Inc.
- (E) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. **MERS is the beneficiary under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.
- (F) "Note" means the promissory note signed by Borrower and dated August 25, 2016 . The Note states that Borrower owes Lender One Hundred Seventy Two Thousand Five Hundred Twenty Five and 00/100 Dollars (U.S. \$172,525.00 ) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than September 1, 2046 .
- (G) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
- (H) "Loan" means the debt evidenced by the Note, plus interest, and late charges due under the Note, and all sums due under this Security Instrument, plus interest.
- (I) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:
- Adjustable Rate Rider       Condominium Rider       Planned Unit Development Rider
- Other
- Rehabilitation Loan Rider
- (J) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
- (K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.
- (L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
- (M) "Escrow Items" means those items that are described in Section 3.
- (N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i)





TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**UNIFORM COVENANTS.** Borrower and Lender covenant and agree as follows:

- 1. Payment of Principal, Interest, Escrow Items, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 14. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

- 2. Application of Payments or Proceeds.** Except as expressly stated otherwise in this Security Instrument or the Note, all payments accepted and applied by Lender shall be applied in the following order of priority:



First, to the Mortgage Insurance premiums to be paid by Lender to the Secretary or the monthly charge by the Secretary instead of the monthly mortgage insurance premiums;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note; and,

Fifth, to late charges due under the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

- 3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums to be paid by Lender to the Secretary or the monthly charge by the Secretary instead of the monthly Mortgage Insurance premiums. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 14 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified

under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by



Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that this requirement shall cause undue hardship for the Borrower or unless extenuating circumstances exist which are beyond Borrower's control.
7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

If condemnation proceeds are paid in connection with the taking of the property, Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts, and then to payment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments or change the amount of such payments.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.
9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or

repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

- 11. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.
- 12. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.



Subject to the provisions of Section 17, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 19) and benefit the successors and assigns of Lender.

- 13. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. Lender may collect fees and charges authorized by the Secretary. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment with no changes in the due date or in the monthly payment amount unless the Lender agrees in writing to those changes. Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

- 14. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.
- 15. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such

conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

- 16. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.
- 17. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 17, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 14 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

- 18. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to reinstatement of a mortgage. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. However, Lender is not required to reinstate if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding; (ii) reinstatement will preclude foreclosure on different grounds in the future; or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 17.



- 19. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 14) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this Section. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 17 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 19.

- 20. Borrower Not Third-Party Beneficiary to Contract of Insurance.** Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower acknowledges and agrees that the Borrower is not a third party beneficiary to the contract of insurance between the Secretary and Lender, nor is Borrower entitled to enforce any agreement between Lender and the Secretary, unless explicitly authorized to do so by Applicable Law.
- 21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the

Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 17 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee shall cause this notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

**Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.**

- 23. Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Lender may charge such person or persons a reasonable fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law. If the fee charged does not exceed the fee set by Applicable Law, the fee is conclusively presumed to be reasonable.
- 24. Substitute Trustee.** Lender, at its option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of the county in which the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument is recorded and the name and address of the successor trustee. Without conveyance of the Property, the successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by Applicable Law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.
- 25. Statement of Obligation Fee.** Lender may collect a fee not to exceed the maximum amount permitted by Applicable Law for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.
- 26. Waiver of Homestead.** Borrower waives all right of homestead exemption in the Property.
- 27. Attorneys' Fees.** As used in this Security Instrument and the Note, attorneys' fees shall include those awarded by an appellate court and any attorneys' fees incurred in a bankruptcy proceeding.

The undersigned Borrower requests that a copy of any Notice of Default and any Notice of Sale under this Security Instrument be mailed to Borrower at the address set forth above.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.



\_\_\_\_\_  
Leonila R Urbina (Seal)  
-Borrower



\_\_\_\_\_  
Neri R Urbina Del Cid (Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

Refer to the attached *Signature Addendum* for additional parties and signatures.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of *CA*

County of *Kern*

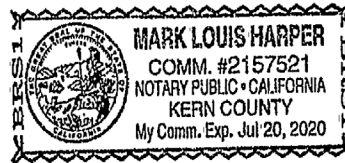
On *August 25, 2016*, before me *Mark Louis Harper - Notary Public*,  
Notary Public, personally appeared

*Leonila R. Urbina, Neri R. Urbina Del Cid*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



*Mark Louis Harper*  
\_\_\_\_\_  
Notary Public

My commission expires: *July 20, 2020*

Loan Origination Organization: eMortgage Funding LLC  
NMLS ID: 1059364  
Loan Originator: Joey Abro  
NMLS ID: 784262



**EXHIBIT "A"**

LOT 31 OF TRACT 4602 IN THE CITY OF BAKERSFIELD, COUNTY OF KERN, STATE OF CALIFORNIA, AS PER MAP RECORDED DECEMBER 15, 1983 IN BOOK 33 PAGE(S) 14 AND 15, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. EXCEPTING THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES WITHIN OR UNDERLYING SAID LAND. ALSO EXCEPTING THEREFROM ALL WATER AND/OR RIGHTS WITHIN OR UNDERLYING SAID LAND.

**P.I.D#:** 392-183-12-00

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Freedom Mortgage Corp. Facing Class Action Over Alleged 'Pay-to-Pay' Fees on Mortgage Payments](#)

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