

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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5 ANA RAMIREZ, et al.,  
6 Plaintiffs,  
7 v.  
8 GREENPOINT MORTGAGE  
9 FUNDING, INC.,  
10 Defendant.

NO. C08-0369 TEH

ORDER RE: HEARING ON  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS  
SETTLEMENT

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12 On December 4, 2009, Plaintiffs filed a motion for preliminary approval of class  
13 settlement, which Defendant is not expected to oppose. After reviewing the moving papers  
14 and settlement agreement, this Court has several initial concerns about the adequacy of the  
15 agreement reached by the parties. Counsel shall be prepared to address the following at the  
16 January 11, 2010 hearing:

- 17 1. What are the estimated costs of administering the settlement?
- 18 2. If all of the estimated 96,000 members submitted a claim, then each class member  
19 would receive approximately \$15. How can this be characterized as a “substantial financial  
20 benefit,” as asserted in the moving papers?
- 21 3. Why would such a low pay-out be a reasonable settlement in light of the claims  
22 alleged in the complaint?
- 23 4. How will the foreclosure prevention counseling services work? Will \$75,000 be  
24 adequate to fund counseling for the entire class? Why is it adequate for class members to  
25 have access to such counseling only for an unspecified period of time “up to” one year, as  
26 provided in the settlement agreement?
- 27 5. Is it possible to quantify the risk that a future judgment would not be collectible  
28 due to Defendant’s financial situation? In evaluating this issue, should the Court consider

1 whether Defendant has any insurance policies from which a settlement or judgment could be  
2 paid?

3           6. Even if there were a high risk that a post-trial judgment would not be collectible  
4 and Defendant can only afford to pay a limited amount, why should the Court approve a  
5 settlement that allocates to attorneys' fees nearly 45% of the total sum to be paid by  
6 Defendant? Although Plaintiffs state that the agreed upon \$1.25 million for attorneys' fees is  
7 less than counsel's lodestar, should the Court consider whether use of such a high number of  
8 attorneys by Plaintiffs was an efficient use of resources?

9           7. If the Court ultimately decides not to grant Plaintiffs' motion for preliminary  
10 approval of the settlement, would referral to a magistrate judge for a further settlement  
11 conference be helpful?

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13 **IT IS SO ORDERED.**

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15 Dated: 12/16/09



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THELTON E. HENDERSON, JUDGE  
UNITED STATES DISTRICT COURT

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