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SCHIFFRIN & BARROWAY LLP
Alan R. Plutzik, Of Counsel (Bar No. 077785)
Robert M. Bramson, Of Counsel (Bar No. 102006)
2125 Oak Grove Road, Suite 120
Walnut Creek, California 94598
Telephone: (925) 945-0200
Facsimile: (925) 945-8792

SCHIFFRIN & BARROWAY, LLP
Joseph H. Meltzer, Esq.
Edward W. Ciolko, Esq.
Joseph A. Weeden, Esq.
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056

[Additional Counsel Listed On Signature Page]
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARY ALSTON, KEVIN COLLIER
and DERRICK SADDLER, individually
and on behalf of all others similarly
situated,

Plaintiffs,

v.

COUNTRYWIDE FINANCIAL
CORPORATION, COUNTRYWIDE
HOME LOANS, INC., BALBOA
REINSURANCE COMPANY,

Defendants.

Case No.
CLASS ACTION COMPLAINT

FILED
2006 DEC 22 PM 4:01
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
ED. J. ... ES

George H King
-A
CV06-8174
GJK
(55X)

1 Plaintiffs Mary Alston, Kevin Collier and Derrick Saddler ("Plaintiffs"), on
2 behalf of themselves and a class of all others similarly situated, allege as follows:

3 **INTRODUCTION**

4 1. Countrywide Financial Corporation, including certain participating
5 subsidiaries (referred to herein collectively as "Countrywide" or the "Company"), a
6 home mortgage lender, has violated the Real Estate Settlement Procedures Act of
7 1974 ("RESPA") by collecting illegal referral payments in the form of reinsurance
8 premiums funneled through Balboa Reinsurance Company ("Balboa"), its wholly-
9 owned subsidiary or "captive" reinsurer.

10 2. This is a proposed national class action brought by Plaintiffs on behalf
11 of themselves and a class of all other similarly situated homeowners who obtained
12 residential mortgage loans through Countrywide or any of its subsidiaries and paid
13 for private mortgage insurance issued by insurers with whom Countrywide had
14 captive reinsurance arrangements.

15 3. Homeowners who buy a home with less than a 20% down payment are
16 typically required to pay for private mortgage insurance. Private mortgage insurance
17 protects the lender in the event of a default by the borrower. The premium is paid by
18 the borrower and is usually collected by the lender with the borrower's monthly
19 payments. Borrowers typically have no opportunity to comparison-shop or select the
20 private mortgage insurer.

21 4. Section 2607 of RESPA prohibits lenders from accepting kickbacks or
22 referral fees from any person providing a real estate settlement service, including
23 providers of private mortgage insurance. Thus, a lender cannot legally accept a
24 referral fee from the insurer issuing the private mortgage insurance policy on the
25 borrower's home.

26 5. Countrywide has attempted to circumvent RESPA's prohibition against
27 accepting kickbacks and unearned fees by arranging for the private mortgage insurer
28

1 to pay an excessive portion of borrowers' private mortgage insurance premiums to
2 its subsidiary—Balboa—in the form of purported reinsurance premiums.

3 6. While these payments to Countrywide's wholly-owned subsidiary were
4 purportedly for "reinsurance" services, Balboa received these payments while
5 assuming very little or no actual risk. Since 1999, Countrywide's captive reinsurer
6 has received nearly \$677 million from leading primary mortgage insurers as its
7 "split" of borrowers' mortgage insurance premiums--\$178 million in 2005 alone. In
8 stark contrast, its actual insurance losses as reflected in the total amount of claims
9 paid with respect to such premiums were zero. In other words, the millions of
10 dollars collected by Countrywide through its captive reinsurance arrangements far
11 exceeded the value of any services rendered.

12 7. This scheme constitutes disguised, unlawful referral fees in violation of
13 RESPA's anti-kickback provisions, as well as a violation of RESPA's ban on
14 accepting a percentage of settlement-service fees other than for services actually
15 performed.

16 JURISDICTION AND VENUE

17 8. This Court has subject matter jurisdiction over this action pursuant to 28
18 U.S.C. §§ 1331 and 1367 and 12 U.S.C. § 2614.

19 9. Venue is proper in this district under 28 U.S.C. § 1391(b) because
20 Defendants reside in this district, a substantial part of the events giving rise to the
21 claims occurred in this district and/or the real property involved in one or more of
22 Plaintiffs' mortgage loan transaction is located in this district.

23 PARTIES

24 Plaintiffs

25 10. Plaintiff Mary Alston resides in Pennsylvania. Plaintiff Alston obtained
26 a residential mortgage loan from Countrywide in April of 2005 for the purchase of a
27 home, with a downpayment of less than 20%, and was required to pay for primary
28

1 mortgage insurance. Plaintiff Alston paid for primary mortgage insurance from an
2 insurer with whom Countrywide had a captive reinsurance arrangement.

3 11. Plaintiff Kevin Collier resides in Warminster, Pennsylvania. Plaintiff
4 Collier obtained a residential mortgage loan from Countrywide in February of 2006
5 for the purchase of a home, with a downpayment of less than 20%, and was required
6 to pay for primary mortgage insurance. Plaintiff Collier paid for primary mortgage
7 insurance from an insurer with whom Countrywide had a captive reinsurance
8 arrangement.

9 12. Plaintiff Derrick Saddler resides in Chula Vista, California. Plaintiff
10 Saddler obtained a residential mortgage loan from Countrywide for the purchase of a
11 home, with a downpayment of less than 20%, and was required to pay for primary
12 mortgage insurance. Plaintiff Saddler paid for primary mortgage insurance from an
13 insurer with whom Countrywide had a captive reinsurance arrangement.

14 Defendants

15 13. Defendant Countrywide is a publicly traded corporation, duly formed
16 and existing under the laws of the state of Delaware. Countrywide's corporate
17 headquarters is located at 4500 Park Granada, Calabasas, California. Countrywide
18 operates through its subsidiaries, among which are, without limitation, Countrywide
19 Home Loans, Inc., Countrywide Bank, N.A., Countrywide Insurance Services, Inc.
20 and Balboa Reinsurance Company.

21 14. Defendant Countrywide Home Loans is Countrywide's flagship
22 subsidiary and provides home loans nationwide. Countrywide Home Loans is a New
23 York corporation with its corporate headquarters is located at 4500 Park Granada,
24 Calabasas, California.

25 15. Defendant Balboa (f/k/a Second Charter Reinsurance Company) is
26 Countrywide's captive reinsurer, entering into agreements to provide mortgage
27 reinsurance on certain mortgage loans originated by Countrywide. Balboa
28

1 Reinsurance Company is a Vermont corporation. Upon information and belief, its
2 corporate headquarters is located in Irvine, California.

3 **FACTUAL ALLEGATIONS**

4 **Countrywide's Operations**

5 16. Countrywide is one of the nation's largest residential mortgage lenders,
6 with approximately \$491 billion in loan production in 2005 and a residential
7 mortgage servicing portfolio in excess of \$1 trillion. Its mortgage lending segment
8 operates in a variety of sectors, including retail, wholesale and correspondent
9 lending. It also operates in a number of other areas, including banking, capital
10 markets, investments and insurance.

11 17. Countrywide's primary focus is its mortgage lending business.

12 18. Countrywide originates home mortgage loans directly to consumers.

13 The company generates mortgage loans through four separate divisions—Consumer
14 Markets, Wholesale Lending, Correspondent Lending and Countrywide Full
15 Spectrum Lending.

16 19. In addition to over 15,000 field salespersons pursuing customer leads
17 and originating home loans, Countrywide sources loans through a network of over
18 30,000 mortgage brokers.

19 20. Balboa is a subsidiary of Countrywide and provides reinsurance
20 coverage with respect to substantially all of the loans in Countrywide's portfolio that
21 are covered by private mortgage insurance. In 2005, Countrywide's insurance
22 segment, of which Balboa is a member, generated nearly \$1 billion in net premiums
23 earned.

24 21. In 2005, Countrywide reported over \$10 billion in revenues. The
25 Company has nearly \$194 billion in total assets.

26 **Private Mortgage Insurance Industry**

27 22. In order to lessen risk of default, lenders typically prefer to finance no
28 more than eighty percent of the value of a home, with the remaining twenty percent

1 being paid as a down payment by the borrower. In the event of a default, the lender
2 is then more likely to completely recover its investment.

3 23. Many potential homebuyers cannot afford to pay 20% of the purchase
4 price as a down payment on a home. Private mortgage insurance allows the lender to
5 make loans in excess of 80% of the home's value by providing a guarantee from a
6 dependable third party -- the private mortgage insurer -- to protect the lender in the
7 event of a default by the borrower.

8 24. Private mortgage insurers are typically unaffiliated third-party
9 companies who agree to cover the first twenty to thirty percent of the amount of the
10 potential claim, including unpaid principal, interest and certain expenses.

11 25. The amount of private mortgage insurance coverage required varies
12 according to the perceived risk of default. The lower the percentage of the
13 borrower's down payment, the more mortgage insurance required. For example,
14 more private mortgage insurance is required with a five percent down payment than
15 with a fifteen percent down payment. Additionally, more private mortgage insurance
16 may be required for adjustable-rate mortgages than for fixed-rate mortgages.

17 26. While the lender is the beneficiary of the private mortgage insurance,
18 the borrower pays the premiums, usually through an addition to the borrower's
19 monthly mortgage payment.

20 27. Borrowers generally have no opportunity to comparison-shop for
21 private mortgage insurance. The private mortgage insurer is selected by the lender.
22 The terms and conditions of the insurance policy, as well as the cost of the policy, is
23 determined by the lender and the private mortgage insurer, rather than negotiated
24 between the borrower and the private mortgage insurer.

25 28. The private mortgage insurance industry began with the founding of
26 Mortgage Guaranty Insurance Corp. ("MGIC") in 1957 and is dominated by MGIC
27 and other companies, including, without limitation: PMI Mortgage Insurance
28 Company, Genworth Mortgage Insurance Corporation, Radian Guaranty Inc., United

1 Guaranty Residential Insurance Company, Triad Guaranty Insurance Company and
2 Republic Mortgage Insurance. The industry is represented by a trade association
3 known as Mortgage Insurance Companies of America ("MICA").

4 29. According to MICA, new private mortgage insurance contracts for its
5 member firms have consistently exceeded \$200 billion per year since 1998. MICA
6 firms issued over 1.5 million new certificates of mortgage insurance in 2005,
7 representing over \$225 billion in new insurance written.

8 30. Private mortgage insurance is limited to the conventional home loan
9 market. Mortgage loans directly insured by the federal government via mortgage
10 guaranty programs, such as those maintained by the Federal Housing Administration
11 and the Veterans Administration, maintain their own form of mortgage default
12 insurance.

13 **RESPA Prohibits Kickbacks for Referrals and Fee-Splitting**
14 **Related To Private Mortgage Insurance Policies**

15 31. RESPA is the primary federal law regulating residential mortgage
16 settlement services. The United States Department of Housing and Urban
17 Development ("HUD") is charged with enforcing RESPA. HUD has promulgated
18 the implementing rules for RESPA, Regulation X, 24 C.F.R. § 3500.

19 32. RESPA was enacted, in part, to curb the problem of kickbacks between
20 real estate agents, Lenders and other real estate settlement service providers. "It is
21 the purpose of this chapter to effect certain changes in the settlement process for
22 residential real estate that will result...(2) in the elimination of kickbacks or referral
23 fees that tend to increase unnecessarily the costs of certain settlement services." 12
24 U.S.C. § 2601(b).

25 33. A key component of RESPA is its dual prohibition of referral fees and
26 fee-splitting between persons involved in real estate settlement services.

27 34. In 12 U.S.C. 2607(a) RESPA provides:
28

1 No person shall give and no person shall accept any fee,
2 kickback, or thing of value pursuant to any agreement or
3 understanding, oral or otherwise, that business incident to or a
4 part of a real estate settlement service involving a federally
5 related mortgage loan shall be referred to any person.

6 35. In 12 U.S.C. 2607(b) RESPA provides:

7 No person shall give and no person shall accept any portion, split,
8 or percentage of any charge made or received for the rendering of
9 a real estate settlement service in connection with a transaction
10 involving a federally related mortgage loan other than for services
11 actually performed.

12 36. Regulation X further explains, "A charge by a person for which no or
13 nominal services are performed or for which duplicative fees are charged is an
14 unearned fee and violates this section." 24 C.F.R. § 3500.14(c).

15 37. The term "thing of value" is broadly defined in RESPA and further
16 described in Regulation X as including:

17 without limitation, monies, things, discounts, salaries,
18 commissions, fees, duplicate payments of a charge, stock,
19 dividends, distributions of partnership profits, franchise royalties,
20 credits representing monies that may be paid at a future date, the
21 opportunity to participate in a money-making program, retained
22 or increased earnings, increased equity in a parent or subsidiary
23 entity... The term payment is used as synonymous with the giving
24 or receiving any "thing of value" and does not require transfer of
25 money.

26 24. C.F.R. § 3500.14(d).

27 38. Private mortgage insurance business referred to private mortgage
28 insurers by a lender constitutes "business incident to or a part of a real estate
settlement service" within the meaning of RESPA, 12 U.S.C. § 2607(a). The term
"settlement service" is liberally defined in RESPA and Regulation X and includes
the "provision of services involving mortgage insurance." 24 C.F.R. § 3500.2(b).

1 **Captive Mortgage Reinsurance Arrangements and HUD's Concern About**
2 **RESPA Anti-kickback Violations Under Such Arrangements**

3 45. Lenders produce customers for private mortgage insurers. Certain
4 lenders, seeking to capitalize on the billions of dollars their borrowers pay to these
5 insurers in premiums each year, have established their own subsidiary or "captive"
6 reinsurers. These captive reinsurers provide reinsurance primarily or exclusively for
7 loans the lender originates that require the borrower to pay for private mortgage
8 insurance.

9 46. Under "captive reinsurance arrangements," the lender refers its
10 borrowers to a private mortgage insurer who agrees to reinsure with the lender's
11 captive reinsurer. These arrangements require the private mortgage insurer to cede a
12 percentage of the borrowers' premiums to the lender's captive reinsurer.

13 47. Captive mortgage reinsurance arrangements raise obvious RESPA
14 kickback problems. Private mortgage insurers are dependent on the lender to obtain
15 business, while the lender is collaborating with the insurer to obtain a share of the
16 borrower's premium revenue through its captive reinsurer. The insurer stimulates its
17 business by providing a lucrative stream of revenue for the lender via the lender's
18 captive reinsurer.

19 48. Simply put, as opposed to receiving direct payments for referring its
20 customers to a certain private mortgage insurer, an unscrupulous lender can use a
21 captive reinsurance arrangement to funnel such unlawful kickbacks.

22 49. Concerned that these transactions would be designed to disguise a
23 funneling of referral fees back to the lender who arranged for the private mortgage
24 insurer to obtain the business, HUD issued a letter dated August 6, 1997 ("HUD
25 letter") addressing the problem of captive reinsurers and RESPA's anti-kickback
26 violations.

27 50. The HUD letter concluded that captive reinsurance arrangements were
28 permissible under RESPA only "if the payments to the affiliated reinsurer: (1) are for

1 reinsurance services 'actually furnished or for services performed' and (2) are bona
2 fide compensation that does not exceed the value of such services. (emphasis in
3 original)"

4 51. The HUD letter focuses the RESPA anti-kickback analysis on whether
5 the arrangement between the lender's captive reinsurer and the private mortgage
6 insurer represents "a real transfer of risk." HUD warned that "The reinsurance
7 transaction cannot be a sham under which premium payments... are given to the
8 reinsurer even though there is no reasonable expectation that the reinsurer will ever
9 have to pay claims."

10 52. The HUD letter states "This requirement for a real transfer of risk would
11 clearly be satisfied by a quota share arrangement, under which the reinsurer is bound
12 to participate pro rata in every claim" (emphasis in original).

13 53. The HUD letter contrasts the excess loss method of reinsurance. HUD
14 states that excess loss reinsurance contracts can escape characterization as a referral
15 fee or fee-split only:

16 ...if the band of the reinsurer's potential exposure is such that a
17 reasonable business justification would motivate a decision to
18 reinsure that band. Unless there is a real transfer of risk, no real
19 reinsurance services are actually being provided. In either case,
20 the premiums paid...must be commensurate with the risk.

21 54. Notably, state insurance commissioners and federal regulators have
22 investigated and condemned similar captive reinsurance arrangements in the title
23 insurance industry as sham transactions designed to funnel unlawful kickbacks for
24 business referrals. As a result, a number of providers have abandoned such
25 arrangements altogether.

26 55. The National Association of Insurance Commissioners ("NAIC") also
27 has addressed the accounting treatment of premiums ceded to captive mortgage
28 reinsurers. Under the annual statement requirements of the NAIC, private mortgage
insurers should not treat as authorized reinsurance amounts ceded to lender-captive

1 reinsurers where adequate risk is not transferred. Rather, such amounts should be
2 accounted for under the less beneficial deposit accounting guidelines and identified
3 as though unauthorized accounting was being utilized.

4 **Countrywide's Captive Reinsurance Arrangements**

5 56. In connection with the billions of dollars in home loans originated by
6 Countrywide, many of its borrowers pay for private mortgage insurance.

7 57. Countrywide enters into "captive reinsurance arrangements," whereby it
8 refers its borrowers to private mortgage insurers, who agree to reinsure with Balboa.
9 These insurers include at least: PMI Mortgage Insurance Company, Genworth
10 Mortgage Insurance Corporation, Mortgage Guaranty Insurance Company, Radian
11 Guaranty Inc., United Guaranty Residential Insurance Company, Triad Guaranty
12 Insurance Company and Republic Mortgage Insurance.

13 58. Countrywide has a strong financial interest in steering business to
14 private mortgage insurers who, in turn, agree to reinsure with Balboa on terms that
15 will produce significant kickbacks to Countrywide.

16 59. Balboa enters into reinsurance agreements solely with respect to loans
17 originated by Countrywide.

18 60. Under Countrywide's captive reinsurance arrangements, the primary
19 insurer pays Balboa a percentage of the premiums paid by borrowers on a particular
20 pool of loans; in return, Balboa purportedly agrees to assume a portion of the
21 insurer's risk with respect to the loans involved.

22 61. In fact, little or no risk is actually transferred from the primary insurer to
23 Balboa in exchange for the insurer payments to Balboa. The actual risk transferred
24 to Balboa is not commensurate with the premiums it extracts from the private
25 mortgage insurer.

26 62. Since 1999, Countrywide, through its captive reinsurer, has collected
27 from private mortgage insurers approximately \$676,948,000, as its "share" of
28

1 borrower's private mortgage insurance premiums. In contrast, its "share" of paid
2 insured losses was zero:

3 YEAR	PREMIUMS RECEIVED 4 BY REINSURER	LOSSES PAID BY REINSURER
5 2005	\$191,878,000	\$0
6 2004	\$169,179,000	\$0
7 2003	\$138,470,000	\$0
8 2002	\$90,396,000	\$0
9 2001	\$52,197,000	\$0
10 2000	\$34,000,000	\$0
11 TOTAL:	\$676,948,000	\$0

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14 63. The numbers speak for themselves.

15 64. As HUD noted during its recent testimony by Gary M. Cunningham
16 before the United States Congress (referring to analogous captive reinsurance
17 arrangements in the title insurance industry):

18 [W]hen there is a history of little or no claims being paid, or the
19 premium payments to the captive reinsurer far exceed the risk
20 borne by the reinsurer, there is strong evidence that there is an
21 arrangement constructed for the purpose of payment of referral
22 fees or other things of value in violation of Section 8 of RESPA.

23 65. The millions of dollars collected by Countrywide through its captive
24 reinsurer have clearly not been commensurate to its actual risk exposure.
25 Countrywide has received millions of dollars in payments, while bearing little or no
26 risk of loss.

1 subsidiaries and, in connection therewith, purchased private mortgage insurance and
2 whose residential mortgage loans were included within Countrywide's captive
3 mortgage reinsurance arrangements (the "Class").

4 72. The Class excludes Defendants and any entity in which Defendants has
5 a controlling interest, and their officers, directors, legal representatives, successors
6 and assigns.

7 73. The Class is so numerous that joinder of all members is impracticable.

8 74. A class action is superior to all other available methods for the fair and
9 efficient adjudication of this controversy.

10 75. Plaintiffs' claims are typical of the claims of the Class.

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

- 13 (a) Whether Defendants' captive reinsurance arrangements involved
14 sufficient transfer of risk;
- 15 (b) Whether payments to Countrywide's captive reinsurer were *bona fide*
16 compensation and solely for services actually performed;
- 17 (c) Whether payments to Countrywide's captive reinsurer exceeded the
18 value of any services actually performed;
- 19 (d) Whether Countrywide's captive reinsurance arrangements constituted
20 unlawful kickbacks from private mortgage insurers;
- 21 (e) Whether Countrywide accepted a portion, split or percentage of
22 borrowers' private mortgage insurance premiums other than for services
23 actually performed; and
- 24 (f) Whether Defendants are liable to Plaintiffs and the Class for statutory
25 damages pursuant to RESPA § 2607(d)(2).

26 77. These and other questions of law and/or fact are common to the Class
27 and predominate over any questions affecting only individual Class members.
28

1 78. Plaintiffs will fairly and adequately represent and protect the interests of
2 the members of the Class. Plaintiffs have retained counsel competent and
3 experienced in complex nationwide class action litigation. Plaintiffs have no claims
4 antagonistic to those of the Class. Plaintiffs' counsel will fairly, adequately and
5 vigorously protect the interests of the Class.

6 79. Class action status is warranted under Rule 23(b)(1)(A) because the
7 prosecution of separate actions by or against individual members of the class would
8 create a risk of inconsistent or varying adjudications with respect to individual
9 members of the class, which would establish incompatible standards of conduct for
10 Defendants.

11 80. Class action status is also warranted under Rule 23(b)(1)(B) because the
12 prosecution of separate actions by or against individual members of the class would
13 create a risk of adjudications with respect to individual members of the class which
14 would, as a practical matter, be dispositive of the interests of the other members not
15 parties to the adjudications or substantially impair or impede their ability to protect
16 their interests.

17 81. Class action status is also warranted under Rule 23(b)(2) because
18 Defendants have acted or refused to act on grounds generally applicable to the class,
19 thereby making appropriate final injunctive relief or corresponding declaratory relief
20 with respect to the class as a whole.

21 82. Class action status is also warranted under Rule 23(b)(3) because
22 questions of law or fact common to the members of the class predominate over any
23 questions affecting only individual members, and a class action is superior to other
24 available methods for the fair and efficient adjudication of this controversy.
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CLAIMS FOR RELIEF

COUNT I

VIOLATION OF RESPA, 12 U.S.C. § 2607

83. Plaintiffs hereby incorporate by reference the preceding paragraphs as if they were fully set forth herein.

84. Throughout the Class Period, Defendants provided "settlement services" in respect of "federally-related mortgage loans," as such terms are defined by RESPA §§ 2602(1) and (3).

85. The amounts received by Defendants through Countrywide's captive reinsurance arrangements constituted "things of value" within the meaning of RESPA § 2602(2).

86. Plaintiffs and the Class obtained federally-related residential mortgage loans through Countrywide and paid millions of dollars for private mortgage insurance premiums in connection with their real estate closings. Defendants arranged for an unlawfully excessive split of borrowers' premiums to be paid to Balboa.

87. The millions of dollars in premiums accepted from private mortgage insurers: (a) were not for services actually furnished or performed; and/or (b) exceeded the value of such services.

88. The millions of dollars accepted by Countrywide through its captive reinsurance arrangements constituted fees, kickbacks or things of value pursuant to agreements with private mortgage insurers that business incident to real estate settlement services involving federally-related mortgage loans would be referred to such insurers. Such practice violated RESPA, 12 U.S.C. 2607(a). Balboa—Countrywide's subsidiary—participated in the scheme and served as the direct conduit by which the kickbacks were funneled. Balboa agreed to provide purported "reinsurance" services involving mortgage insurance paid by Plaintiffs and the Class.

1 89. In connection with transactions involving federally related mortgage
2 loans, Countrywide accepted a portion, split or percentage of charges received by
3 private mortgage insurers for the rendering of real estate settlement services other
4 than for services actually performed, in violation of RESPA, 12 U.S.C. 2607(b). The
5 money paid by private mortgage insurers to Countrywide and accepted by
6 Countrywide through its captive reinsurer was a portion, split or percentage of the
7 private mortgage insurance premiums paid by Countrywide's customers. Balboa—
8 Countrywide's subsidiary—participated in the scheme and served as the direct party
9 to which the split was paid. Balboa agreed to provide purported "reinsurance"
10 services involving mortgage insurance paid by Plaintiffs and the Class.

11 90. Plaintiffs and the Class were harmed by Defendants' unlawful kickback
12 scheme.

13 91. First, Plaintiffs and the Class were overcharged for mortgage insurance.
14 Under Countrywide's scheme, the mortgage insurance premiums paid by Plaintiffs
15 and the Class necessarily and wrongly included payments for both: (a) actual
16 mortgage insurance services; and (b) payments unlawfully kicked back to
17 Countrywide's captive reinsurer that far exceeded the value of any services
18 performed and, were, in fact, illegal referral fees.

19 92. Second, regardless of whether Plaintiffs and the Class were overcharged
20 for private mortgage insurance, under RESPA, Plaintiffs and the Class were entitled
21 to purchase settlement services from providers that did not participate in unlawful
22 kickback schemes and are entitled to recover from Countrywide statutory damages in
23 an amount equal to three times the amount they paid for private mortgage insurance.

24 93. Defendants violated RESPA, 12 U.S.C. 2607. Pursuant to RESPA, 12
25 U.S.C. 2607(d), Defendants are liable to Plaintiffs and the Class in an amount equal
26 to three times the amounts they have paid or will have paid for private mortgage
27 insurance as of the date of judgment. In accordance with RESPA, 12 U.S.C.
28 2607(d), Plaintiffs also seek attorneys' fees and costs of suit.

1 § 16, 12 U.S.C. § 2614. It would be inequitable to permit the one-year limitation
2 period to preclude the claim of any Plaintiff or Class member.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs request that this Court enter a judgment against
5 Defendants and in favor of Plaintiffs and the Class and award the following relief:

- 6 A. This action be certified as a class action pursuant to Rule 23 of the
7 Federal Rules of Civil Procedure, declaring Plaintiffs as representatives
8 of the Class and Plaintiffs' counsel as interim counsel for the Class;
9 B. The conduct alleged herein be declared, adjudged and decreed to be
10 unlawful;
11 C. Plaintiffs and the Class be awarded statutory damages pursuant to
12 RESPA § 8(d)(2), 12 U.S.C. § 2607(d)(2);
13 D. An order granting Plaintiffs and the Class costs of suit, including
14 reasonable attorneys' fees and expenses; and
15 E. An order granting Plaintiffs and the Class such other, further and
16 different relief as the nature of the case may require or as may be
17 determined to be just, equitable and proper by this Court.

18 **DEMAND FOR JURY TRIAL**

19 Dated: December 20, 2006 SCHIFFRIN & BARROWAY, LLP
20 Alan R. Plutzik, Of Counsel
21 Robert M. Bramson, Of Counsel
22 2125 Oak Grove Road, Suite 120
23 Walnut Creek, CA 94598
24 Telephone: (925) 945-0200
25 Facsimile: (925) 945-8792

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27 Robert M. Bramson
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SCHIFFRIN & BARROWAY, LLP

Joseph H. Meltzer, Esq.
Edward W. Ciolko, Esq.
Joseph A. Weeden, Esq.
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056

BERKE, BERKE & BERKE

Andrew L. Berke, Esq.
420 Frazier Avenue
Chattanooga, TN 37402
Telephone: (423) 266-5171
Facsimile: (423) 265-5307

TRAVIS & CALHOUN, P.C.

Eric G. Calhoun, Esq.
1000 Providence Towers East
5001 Spring Valley Road
Dallas, Texas 75244
Telephone: (972) 934-4100
Facsimile: (972) 934-4101

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge George King and the assigned discovery Magistrate Judge is Suzanne H. Segal

The case number on all documents filed with the Court should read as follows:

CV06- 8174 GHK (SSx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR, OR PLAINTIFF OR DEFENDANT IF PLAINTIFF OR DEFENDANT IS PRO PER

Alan R. Fluzik, Of Counsel (Bar No. 077785)
Schiffin & Barroway LLP
2125 Oak Grove Road, Suite 120
Walnut Creek, CA 94598
Telephone: (925) 945-0200

ATTORNEY FOR: Plaintiff

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FILED
2006 DEC 22 PM 1:16
CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARY ALSTON, KEVIN COLLIER and
DERRICK SADDLER

Plaintiff(s)

CASE NUMBER

CV-06-8174 (KES)

COUNTRYWIDE FINANCIAL
CORPORATION, et al.

Defendant(s)

CERTIFICATION AND NOTICE
OF INTERESTED PARTIES
(Local Rule 7.1-1)

TO: THE COURT AND ALL PARTIES APPEARING OF RECORD:

The undersigned, counsel of record for Plaintiffs
(or party appearing in pro per), certifies that the following listed party (or parties) has (have) a direct, pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal. (Use additional sheet if necessary.)

PARTY CONNECTION

(List the names of all such parties and identify their connection and interest.)

None other than the parties of record.

12/22/06

Date

Sign

Plaintiffs

Attorney of record for or party appearing in pro per

Court Reporters Office:

Ordering Transcripts

District court civil and criminal transcripts may be ordered by making financial arrangements with the individual court reporters. To identify which reporter to contact for a specific in-court matter before April 2002, please refer to the appropriate docket entry on the civil or criminal docket sheet which is now electronically available on PACER. For specific in-court matters after April 2002, the court reporter assignment schedule is on the website. Go to Court Reporter Schedule, then view all and select the date you need to check. Transcript orders from magistrate judge courts should be placed with the magistrate judges' courtroom deputy clerk. Please refer to the website for the necessary telephone numbers, applicable fees, and identification of court reporter assignments. For more information, you can call the court reporter supervisor's office at 213-894-3015.

Ordering Realtime Connection

Realtime reporting connection should be requested in advance of the trial. Please contact the court reporter supervisor's office to request the realtime connection. There is a separate charge for the realtime connection. Please refer to the transcript rates to determine the cost. The only court reporters who may connect to realtime and charge for it are federally certified realtime court reporters. Many reporters will provide the realtime connection if a daily transcript is being ordered. The attorney must bring his or her own laptop computer.

Ordering Dailies

A request for a daily transcript should be made as soon as possible before the trial begins. Please notify the court reporter supervisor's office at least a week in advance of the trial start date in order to request a daily. The daily will not commence until financial arrangements have been made. Please do not walk in to court on the first day of trial and request a daily transcript as reporters need time to prepare.

Touch Screen

A touch screen is available in the lobby of each division. This device provides court addresses, hours, telephone numbers, a daily-master calendar, and the weekly Post-Indictment calendar.

**UNITED STATES
DISTRICT COURT**

**CENTRAL DISTRICT OF
CALIFORNIA**

WEST DIVISION

Clerk's Office
312 Spring Street
Los Angeles, California 90012
312-3535
(emergency filing/info: 213-894-3535)

(emergency filing/info: 213-894-3535)

SOUTHERN DIVISION

Ronald Reagan Federal Building and Courthouse
Clerk's Office, Room 1-053
411 West 4th Street
Santa Ana, California 92701-4516
714-338-4750

EASTERN DIVISION

U.S. Courthouse
Clerk's Office, Room 134
3470 Twelfth Street
Riverside, California 92501
951-328-4450

**UNITED STATES
DISTRICT COURT
CENTRAL DISTRICT OF
CALIFORNIA**



**CLERK'S OFFICE SERVICES
FOR ATTORNEYS
AND THE GENERAL PUBLIC**

July 2005

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The United States District Court, Central District of California is one of the largest federal courts in the nation. The clerk's office has put this brochure together to provide a quick reference for attorneys and the general public regarding the services that are currently available. Feedback and suggestions as to how we might improve our service are always appreciated.

Web Sites

Information about the district court may be obtained on-line. Users can gather information about attorney admissions and filing procedures, review master and daily calendars, requirements for court appearances, Local Rules, General Orders and resolutions issued and published opinions; obtain extensive and up-to-date case information and available court services, download court forms, and keep apprised of recent developments in the clerk's office. Visit the court's home page at www.usdc.cdcourt.gov.

Clerk's Office

The clerk's office hours are 10:00 AM - 4:00 P.M., Monday-Friday, excluding court observation holidays. The drop-off box service has been discontinued. For after hour emergency filings, call the following telephone numbers: Western Division, 213-894-2215, 213-894-4220/4221, after hours: 213-894-2488; Southern Division, 714-338-4786; Eastern Division: 951-328-4470.

WebPACER

The "Public Access to Court Electronic Records" (PACER) is a browser based electronic retrieval system that provides criminal and civil summaries and docket information using a computer terminal. PACER also provides access to scanned civil judgments, orders, and minute orders. The PACER service is available 24 hours a day, including weekends. To establish a PACER account, contact the PACER Service Center: 800-676-6856.

Optical Scanning Program

Attorneys who enroll in the Optical Scanning Program are served with civil judgments, orders or other court-issued documents on discs in which they are counsel of record, by facsimile or Internet e-mail instead of by regular mail. Documents are electronically transmitted to attorneys, as well as other court-designated non-parties, within 24 hours of the docket entry. There is no charge for this service. To sign up, obtain an enrollment form from the court's website or from any division of the clerk's office, or call 213-894-

5474. A one-time enrollment is all that is necessary in order to be registered in this program.

Records

All pending criminal, civil, magistrate, and multi-district litigation (MDL) cases may be reviewed, at no charge, at the clerk's office. Case files and dockets may be viewed on the same day as requested unless the requested material is unavailable. Certain closed cases are located at the court's storage facility and may be ordered, viewed and copies obtained directly from National Archives and Records Administration (NARA) at 940-360-2629. These files will take several days to retrieve and are subject to a retrieval fee. To identify which clerk's office maintains the case file you wish to view, please refer to the prefix of the case number (two digits after the letters represent the filing year; for example, 05 is year 2005) as follows:

Western Division (Los Angeles)
CV 05-0000 - civil CR 05-0000 - criminal
Southern Division (Santa Ana)
SACV 05-0000 - civil SACR 05-0000 - criminal
Eastern Division (Beverly Hills)
EDCV 05-0000 - civil EDCR 05-0000 - criminal

There is a charge for copies, certifications, and exemplifications. For more information on closed or archived court records, call the appropriate division, send email to records@cdcourt.gov or visit the court's website. The telephone numbers are listed on the reverse of this brochure.

Photocopy Service

Photocopy services are available from outside copy services. Please note that exemplifications and copies must still be obtained from the clerk's office. For opinions, contact the appropriate vendors: Western Division: 213-272-3075; Southern Division: 714-543-8213, and Eastern Division: 951-328-9905.

Interpreter Services

The interpreter services section of the clerk's office provides interpreters for all court proceedings instructed by the United States that require the use of a language other than English. The section also makes interpreter referrals in response to inquiries from law firms and the general public in cases where court-appointed interpreters are not indicated. For further information, please go to the court's web site under "General Information"; "Interpreters". You may call 213-894-4370 for additional details.

Jury Section

The court's website offers valuable information to prospective jurors. You may see responses to frequently asked questions, read the General Order 03-12 regarding the selection of Grand and Petit jurors, download the jury handbook; review jury information for all three divisions, and verify your status/instructions utilizing the Automated Juror Information System (AJIS). Submit questions or comments to the jury section at jury@cdcourt.usdc.us.

Attorney Work Room

For attorneys, a work room is located on the second floor of the Spring Street Courthouse, on the first floor of the Ronald Federal Building, and on the tenth floor of the Ronald Reagan Federal Building and U.S. Courthouse. The workrooms have Pentium personal computers with access to Westlaw, WordPerfect, and PACER; laser printers, storage lockers, copy machines, and individual conference rooms.

Evidence Presenters

The clerk's office has evidence presenters available for attorneys to use in court proceedings. This technology connects an overhead projector to monitors which display pictures for the judge, attorneys and the jury. There is no charge for using the equipment; however, due to the high demand for its use, the equipment is reserved on a first-come, first-served basis. For more information or to reserve the equipment, visit the court's website or contact the appropriate divisions: Western Division at 213-894-1400; Southern Division at 714-338-4785, and Eastern Division at 951-328-4450 or 951-328-4451.

Videoconferencing

Videoconferencing allows parties at off-site locations to appear at court hearings by way of two-way audio and visual monitors. The appropriate courtroom deputy clerk should be contacted as to whether use of this equipment in the courtroom is permitted for the specific hearing or trial. There are minimal telephone charges but no equipment charges for use of the unit. For more information or to reserve the equipment, visit the court's website or contact the court's Judicial Liaison Officer at 213-894-0222.

**UNITED STATE DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE TO COUNSEL

The court has directed that the following rules be specifically called to your attention:

- I. Continuing Obligation to Report Related Cases (Local Rule 83-1.3.3)
- II. Service of Papers and Process (Local Rule 4)
- III. Notice of Right to Consent to disposition of a Civil Case by a United States Magistrate Judge [28 U.S.C. §636 (e) and General Order 01-13].

I. CONTINUING OBLIGATION TO REPORT RELATED CASES

Parties are under the continuing obligation to promptly advise the Court whenever one or more civil actions or proceedings previously commenced and one or more currently filed appear to be related.

Local Rule 83-1.3.3 states: "It shall be the continuing duty of the attorney in any case promptly to bring to the attention of the Court, by the filing of a Notice of Related Case(s) pursuant to Local Rule 83-1.3, all facts which in the opinion of the attorney or party appear relevant to a determination whether such action and one or more pending actions should, under the criteria and procedures set forth in Local Rule 83-1.3, be heard by the same judge."

Local Rule 83-1.2.1. states: "It is not permissible to dismiss and thereafter refile an action for the purpose of obtaining a different judge."

Local Rule 83-1.2.2 provides: Whenever an action is dismissed before judgment and thereafter the same or essentially the same action is refiled, the latter action shall be assigned to the judge to whom the first action was assigned. It shall be the continuing duty of every attorney or party appearing in such a refiled action promptly to bring the prior action to the attention of the Clerk in the Civil Cover Sheet and by filing a Notice of Related Case(s) pursuant to Local Rule 83-1.3.

II. SERVICE OF PAPERS AND PROCESS

Local Rule 4-2 states: "Except as otherwise provided by order of Court, or when required by the treaties or statutes of the United States, process shall not be presented to a United States Marshal for Service." Service of process must be accomplished in accordance with Rule 4 of the Federal Rules of Civil Procedure or in any manner provided by State Law, when applicable. Service upon the United States, an officer or agency thereof, shall be served pursuant to the provisions of FRCP 4 (i). Service should be promptly made; unreasonable delay may result in dismissal of the action under Local Rule 4l and Rule 4(m) of the Federal Rules of Civil Procedure. Proof of service or a waiver of service of summons and complaint must be filed with the court.

III. NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE BY A UNITED STATES MAGISTRATE JUDGE

Pursuant to Local Rule 73-2, this notice must be served with the Summons or Waiver of Service of Summons and Complaint on all defendants.

In accordance with the provisions of 28 U.S.C. §636(c), you are hereby notified that the full-time United States Magistrate Judges of this District Court, in addition to their other duties, may, upon the consent of all parties to their civil case, conduct any and all proceedings in a civil case, including a jury or non-jury trial, and order the entry of a final judgment. Copies of appropriate consent forms for this purpose (Form number CV-11) are available from the Clerk of Court.

Since Magistrate Judges do not handle felony criminal trials, civil trial dates are not at risk of being preempted by a criminal trial, which normally has priority. Further, in some cases the Magistrate Judge may be able to assign an earlier trial date than a District Judge. There may be other advantages and disadvantages which you will want to consider.

Your decision to consent or not to consent to the disposition of your case by a United States Magistrate Judge is entirely voluntary and should be communicated solely to the clerk by submitting a joint form of consent or separate forms of consent, form CV-11. Please note that the United States District Court must approve the consent if it is not submitted at least thirty (30) days prior to the date of the Final Pretrial Conference. **ALL** parties must consent before the case may proceed before a United States Magistrate Judge.

With the exception noted below, the parties may consent to proceed before any Magistrate Judge whose name appears on a list maintained by the Clerk of those Magistrate Judges currently available for consent cases. A space is provided on the consent form for use by parties if they desire to consent to a Magistrate Judge from the list.

NOTE: In cases which already have been assigned to a Magistrate Judges pursuant to 28 U.S.C. §636(b)(1)(B) and these Local Rules, the parties may consent to proceed only before the assigned Magistrate Judge.

Any appeal from a judgment of the Magistrate Judge shall be taken to the United States Court of Appeals in the same manner as an appeal from any other judgment of the district court in accordance with 28 U.S.C. §636(c)(3).

**CLERK, UNITED STATE DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**
OPTICAL SCANNING ENROLLMENT/UPDATE FORM
PLEASE PRINT OR TYPE ALL INFORMATION WHEN COMPLETING THIS FORM

Name: _____ Telephone Number: _____
Firm Name: _____
Address: _____
California State Bar Number: _____ Out-of-State Attorney Case Number (Required for out-of-state attorneys)
Area of Practice: Civil Criminal

FIRST TIME ENROLLMENT

I consent and agree to receive copies of judgments, orders and other documents by electronic transmission at the following e-mail address: _____ and that I understand that service by electronic transmission constitutes notice of entry as required by F.R.Civ.P. 77(d) and F.R.Crim.P. 49 in lieu of service by mail. I further understand that I must notify the Court within twenty-four (24) hours when I have a change of name, firm association, address, or e-mail address to ensure proper service.

UPDATE TO ENROLLMENT (Complete this section if you previously enrolled in the Optical Scanning Program and wish to update your information ONLY.)

- Update my e-mail address to: _____
 Change my enrollment from service of documents by FAX to service by e-mail at the following e-mail address*: _____

One of the following boxes must be checked if you are enrolling or updating your enrollment for CIVIL cases:

- I am enrolling or updating my enrollment for all my cases**.
 I am updating my enrollment for the following case number(s) (case numbers must include SA for Southern Division cases, ED for Eastern Division cases). (Attach separate sheet if necessary.) _____

A list of your civil cases may be obtained by querying your name in the CM/FACER system.

Date: _____ Signature: _____

Mail or fax this completed form to:

United States District Court
Central District of California
312 North Spring Street, Room G-8
Los Angeles, California 90012
Attention: Attorney Admission Clerk
Facsimile: 213-894-2342

*Electronic transmission (e-mail) of documents is recommended due to its efficiency, which results in quicker receipt of judgments, orders and other documents. However, the e-mail address should be to a computer that is accessed on a daily basis due to the importance and timeliness of documents that are being transmitted from the Court. Prior to signing up to receive documents by Internet e-mail, contact your Internet Service Provider and office automation staff to determine whether there are limitations to the size of attachments that may be received. Documents are currently in TIFF format. Effective March 1, 2004, documents will be delivered in PDF format instead of in TIFF format.

**If you checked the box to enroll or update enrollment for all your cases, documents for cases you had when you were with a different firm or agency will be sent to your current e-mail address if you did not file a submission of attorney of notice to be removed from the case.

CIVIL JUDGMENTS, ORDERS & DOCUMENTS WILL BE SENT TO YOU ELECTRONICALLY FOR CASES INDICATED ON THIS FORM, AND IN SUBSEQUENT CASES FOR WHICH YOU APPEAR IN AFTER YOUR ENROLLMENT. CRIMINAL JUDGMENTS, ORDERS & DOCUMENTS ARE SENT IN ALL CASES FOR WHICH YOU ARE ATTORNEY OF RECORD.