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7 Attorney for Objectors
Stephen A. Kron and Cheryl L. Kron
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10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA
12

13 PATRICIA CONNOR, AND SHERI L.
14 BYWATER, INDIVIDUALLY AND
15 BEHALF OF ALL OTHER
SIMILARLY SITUATED,

16 Plaintiffs,
17

18 vs.

19 JP MORGAN CHASE BANK AND
20 FEDERAL NATIONAL MORTGAGE
ASSOCIATION A/K/A FANNIE MAE,
21

22 Defendants.

Case No.: 10-cv-1284 GPC (BGS)

CLASS ACTION

**OBJECTIONS TO PROPOSED
CLASS ACTION SETTLEMENT**

The Hon. Gonzalo P. Curiel

23 Class members, Stephen A. Kron and Cheryl Kron, pursuant to the
24 proposed settlement make the following statement¹:

- 25 a. My name is Stephen A. Kron;
26 b. My name is Cheryl Kron;
27 c. Our address is 5 Marques, Dana Point, CA;

28 _____
¹ Objectors will be filing a Motion for Leave to File a Late Claim.

- 1 d. Our telephone number is (949) 283-2214;
- 2 e. We are members of this class pursuant to a post card notice Cheryl
- 3 Kron 59881259 and Stephen Kron 59881240
- 4 f. Neither I nor my attorney will appear at the fairness hearing;
- 5 g. I object to the proposed settlement as stated herein.
- 6

7 Class member, Stephen A. Kron and Cheryl Kron, pursuant to the proposed
8 settlement make the following objections to such settlement in this case:

10 **OBJECTIONS**

11 **I. Claims Procedure**

12 Only 9% of eligible claimants filed claims. The fact that 9 out of 10 Class
13 Members will be forced to release their claims against Defendants in exchange for
14 no cash benefits raises fairness questions. Was the Notice Plan sufficient in this
15 case? There were 1,303,112 eligible claimants, but only 121,032 Class Members
16 filed claims. Notice of the Group 2 settlement should have been provided to
17 Group 1 Class Members. Additionally, Group 1 Class Members should have been
18 afforded an additional opportunity to either submit a claim, opt-out, or object to
19 the Settlement.

20 **II. Inappropriate Claims Deadline**

21 Class Counsel's Fee Motion was filed five days after the Claims deadline.
22 Group 2 Class Members were forced to decide whether or not to submit a claim
23 without the opportunity of reviewing Class Counsel's fee motion. A Class
24 Member should have the opportunity to review Class Counsel's Fee Motion before
25 he or she is forced to submit a claim. Class members may or may not have
26 requested exclusion or filed an objection had they read the Fee Motion.
27 Moreover, the claims deadline of September 25, 2014 is prior to the objection
28 deadline of October 15, 2014, which forces the class member to make a claim

1 before fully evaluating the settlement with respect to an objection. The objection
2 deadline should be on or after the claims date to give class members a full
3 opportunity to evaluate the reasonableness of the settlement. This Court should
4 extend the claims deadline.

5 **III. Overbroad Release**

6 The Release is overbroad. The “Released Claims” includes any and all
7 claims that arise out of or relate in any way to the use of an “automatic telephone
8 dialing system” or an “artificial or prerecorded voice.” While it may be reasonable
9 for Defendants to seek protection from such claims, it is unfair and unreasonable
10 to place no timeframe on the Release. As written, the Release covers an indefinite
11 timeframe that would exempt Defendants from future automated calls to Class
12 Members. The Class has not been adequately compensated for such an expansive
13 release. The Court should limit the Release to cover the Class Period only.

14 **IV. Class Counsel’s Fee Award**

15 Class Counsel’s fee award should be tied to the Class’ actual recovery, not
16 the total Settlement Amount. The actual amount paid to class members is
17 approximately \$8,468,609. Class Counsel seeks \$2,364,441 in fees. Class
18 Counsel’s fee award should not be based on the total Settlement Fund Amount
19 (\$11,665,592), which includes notice and claims administration costs, and
20 incentive payments. Instead, Class Counsel’s fee award should be based on the
21 total amount recovered for Class Members (\$8,468,609). Based on actual Class
22 recovery, a 20% fee award (the percentage Class Counsel requests) is \$1,693,721.

23 If the Court does not tie the fee award to Class recovery, the Court should
24 exclude the costs of notice and claims administration from the total Settlement
25 Amount when it calculates the fee award.

26 **V. Cy Pres Inappropriate**

27 The proposed cy pres distribution is inappropriate. The objective of cy pres
28 is to achieve the best approximation of righting the wrongs caused by the

1 underlying lawsuit. A cy pres award beneficiary must qualify as "the next best
2 distribution" to giving the funds directly to class members. The Parties have not
3 selected a proposed cy pres recipient nor have they determined the proposed use
4 of the cy pres funds. These facts alone are grounds for rejecting any cy pres
5 distribution. As a result, the proposed cy pres distribution is inappropriate and the
6 Court should reject or modify the Settlement Agreement's cy pres provision. If the
7 settlement fund is not exhausted, the Court should: (a) increase the payments to
8 those who filed claims or provide additional notice to the class and extend the
9 claims period; or (b) require clarification with regards to the cy pres distribution.

10 **Conclusion**

11 For the foregoing reasons we object to the proposed class action settlement.

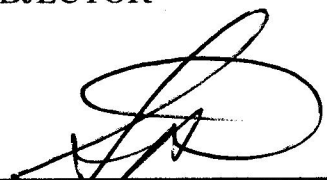
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13 DATED: October 15, 2014

KRON AND CARD LLP

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16 By: /s/ Scott A. Kron
17 SCOTT A. KRON, ESQ.
Attorney for Objectors
18 Stephen A. Kron and Cheryl L. Kron
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21 OBJECTOR

OBJECTOR

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23
24 
25 Stephen A. Kron

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27
28 
Cheryl L. Kron

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CERTIFICATE OF SERVICE

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CERTIFICATE OF SERVICE

I hereby certify that October 15, 2014, I caused the foregoing Objections To Proposed Class Action Settlement to be filed with the Clerk of the Court and to be served upon all counsel of record in this action using the United States District Court for the Southern District of California Electronic Case Filing (“ECF”) System.

The document is available for reviewing and downloading from the ECF System.

/s/ Scott A. Kron
Scott A. Kron, Esq.