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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

TAYLRE CHOWNING, as an individual and
on behalf of all others similarly situated;
THOMAS ARMALY, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

v.

FREEDOM MORTGAGE CORPORATION,
a corporation; RYAN PERUSSI, an
individual; and DOES 1 through 50,

Defendants.

Case No. 37-2022-00005613-CU-OE-CTL

*Assigned to the Hon. Matthew C. Braner
Dept. C-60*

CLASS ACTION

**[Proposed] Order Granting Plaintiffs' Motion
for Preliminary Approval of Class Action
Settlement**

Motion for Prelim. App.

Date: Oct. 14, 2022

Time: 9:00 A.M.

Judge: Hon. Matthew C. Braner

Courtroom: C-60

Action Filed: Feb. 10, 2022

Trial Date: Not Set

1 This matter came on for hearing on October 14, 2022 in Department C-60 of the above-
2 captioned Court on Plaintiffs' Motion Preliminary Approval of Class Action Settlement ("Motion").
3 Having fully reviewed the Motion, the supporting Memorandum of Points and Authorities,
4 Declaration of Nicholas J. Ferraro (and its exhibits), the Class Action Settlement Agreement
5 ("Settlement"), the proposed Class Notice attached as an exhibit to the Settlement, and in recognition
6 of the Court's duties (to make a preliminary determination as to the reasonableness of any proposed
7 class action settlement; to ensure proper notice is provided to all Class Members in accordance with
8 due process requirements; and to set a Final Approval Hearing to consider the good faith, fairness,
9 adequacy and reasonableness of the proposed Settlement), THE COURT MAKES THE
10 FOLLOWING DETERMINATIONS AND ORDERS:

11 1. The Court conditionally finds, for the purposes of approving this settlement only, the
12 proposed Class meets the requirements for certification under section 382 of the California Code of
13 Civil Procedure: (a) the proposed Class is ascertainable and so numerous joinder of all members of
14 the Class is impracticable; (b) there are questions of law or fact common to the proposed Class, and a
15 well-defined community of interest among members of the proposed Class with respect to the subject
16 matter of the class action; (c) the claims of the Class Representatives are typical of the claims of the
17 members of the proposed Class; (d) the Class Representatives have and will fairly and adequately
18 protect the interests of the Class; (e) a class action is superior to other available methods for an
19 efficient adjudication of this controversy in the context of settlement; and (f) counsel of record for the
20 Plaintiffs are qualified to serve as counsel for Plaintiffs and for the Class.

21 2. The Court finds on a preliminary basis the Settlement, attached to the Declaration of
22 Nicholas J. Ferraro as Exhibit 1, incorporated by this reference in full, and made a part of this Order,
23 appears to be within the range of reasonableness of a settlement which could ultimately be given final
24 approval by this Court.

25 3. It appears to the Court on a preliminary basis: (a) the non-reversionary Gross
26 Settlement Amount is fair and reasonable to the Class when balanced against the probable outcome of
27 further litigation relating to class certification, liability and damages issues, and potential appeals;
28 (b) significant investigation, research, and informal discovery, have been conducted such that counsel

1 for the Parties are able to reasonably evaluate their respective positions; (c) settlement at this time
2 will avoid substantial costs, delay, and risks presented by further prosecution of the litigation; and
3 (d) the proposed Settlement was reached through intensive, serious, and non-collusive negotiations
4 facilitated by an experienced mediator.

5 4. Accordingly, good cause appearing, the Motion for Order Granting Preliminary
6 Approval of Class Action Settlement is GRANTED, and the Court incorporates the Settlement.

7 5. Class Members are therefore defined pursuant to the terms set forth in the Settlement.

8 6. The Court further finds the proposed Class Notice (“Class Notice”) fairly and
9 adequately advises Class Members of (a) pendency of the Class Action Settlement; (b) conditional
10 Class certification for settlement purposes only; (c) preliminary Court approval of the proposed
11 Settlement; (d) the date, time and place of the Final Approval Hearing; (e) the terms of the proposed
12 Settlement and the benefits available to Class Members under the Settlement; (f) their right to receive
13 a proportionate share of the Net Settlement Amount without the need to return a claim form; (g) their
14 right to request exclusion, and the procedures and deadline for doing so; (h) their right to object to the
15 Settlement, and the procedure and deadline for doing so; and (i) their right to file documents in
16 opposition to the Settlement, and appear at the Hearing.

17 7. The Court further finds the proposed Class Notice provides the best practicable notice
18 to the Class and clearly comports with all constitutional requirements, including those of due process.
19 Accordingly, good cause appearing, the Court APPROVES the Class Notice.

20 8. The Court further finds that mailing of the Class Notice to the last known address of
21 all Class Members with measures taken for verification of an address and skip tracing of bad
22 addresses, as specifically described within the Settlement, constitutes an effective method of
23 notifying Class Members of their rights with respect to the class action and the Settlement.

24 9. Accordingly, it is ORDERED that:

25 A. Phoenix Settlement Administrators be appointed the Settlement Administrator
26 to administer the Settlement of this matter as more specifically set forth in the Settlement;

27 B. Ferraro Vega Employment Lawyers, Inc. be appointed as Class Counsel;

1 C. Plaintiffs Taylre Chowning and Thomas Armaly be preliminarily appointed as
2 the Class Representatives;

3 D. Within fifteen (15) calendar days (or, if that date falls on a weekend or holiday,
4 the next business day) after the date the Court grants preliminary approval of the Settlement,
5 Defendant shall provide to the Settlement Administrator for each Class Member the following
6 information in a Microsoft Office Excel format: (1) first and last name; (2) last known mailing
7 address; (3) social security number; (4) the total number of weeks during which the Class Member
8 performed any actual work during the Class Period as a member of the Class and PAGA Period, as
9 applicable, as a PAGA Member (“Class Data”);

10 E. Within fourteen (14) calendar days after its receipt of the Class Data, the
11 Settlement Administrator shall mail the Notice Packet to each member of the Class by first class,
12 regular U.S. mail, using the most current mailing address information available, with measures taken
13 for updating an address as provided by the terms of the Settlement.

14 F. On or before sixty (60) calendar days from the date the Settlement
15 Administrator first mails the Notice Packet to Class Members (or, the next business day that is not a
16 Sunday or holiday) (the “Response Deadline”), Class Members who wish to exclude themselves from
17 the Class must submit a written request for exclusion in the manner set forth in the Class Notice.
18 Class Members who fail to submit a valid and timely written Request for Exclusion on or before the
19 Response Deadline shall be bound by all terms of the Settlement and any final judgment entered in
20 this Action if the Settlement is approved by the Court.

21 G. Any Class Member who desires to object may appear in Court at the final
22 approval hearing to present oral objections;

23 H. In addition to appearing at the Final Approval Hearing and objecting orally to
24 the Settlement, on or before the Response Deadline, any Class Member who desires to object to the
25 proposed Settlement, including the request for attorneys’ fees, expenses, or service award to the Class
26 Representatives, may send a written notice of objection in the manner set forth in the Class Notice,
27 stating (a) the objecting person’s full name, address, and telephone number; (b) the words “Notice of
28 Objection” or similar language; (c) describe, in clear and concise terms, the legal and factual

1 arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at
2 the Final Approval hearing; and/or (e) provide true and correct copies of any exhibit(s) the objector
3 intends to offer at the Final Approval hearing;

4 I. On or before the Response Deadline, Class Members who wish to dispute the
5 information upon which their Settlement Payment will be calculated must postmark and return to the
6 Administrator an explanation in writing describing why he or she believes the information is wrong,
7 along with any supporting information and/or documentation as described in the Class Notice. Class
8 Members who received a re-mailed Notice Packet shall have their Response Deadline extended
9 fifteen calendar (15) days from the original Response Deadline.

10 10. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held before the
11 undersigned at _____ on _____, in Department C-60 of the Superior
12 Court of California, County of San Diego located at 330 West Broadway, San Diego, California
13 92101 to consider the fairness, adequacy, and reasonableness of the proposed Settlement
14 preliminarily approved by this Order of Preliminary Approval, and to consider the application for a
15 Service Payment to the Class Representative, Settlement Administrator expenses, and for Class
16 Counsel's attorneys' fees and litigation expenses incurred.

17 11. IT IS FURTHER ORDERED that if for any reason the Court does not execute and file
18 an Order Granting Final Approval, or if the Effective Date, as defined in the Settlement, does not
19 occur for any reason whatsoever, the Settlement and the proposed Settlement that is the subject of this
20 Order, and all evidence and proceedings had in connection therewith, shall be restored without
21 prejudice to the status quo ante as more specifically set forth in the Settlement.

22 12. The Court expressly reserves the right to adjourn or continue the Final Approval
23 Hearing from time to time without further notice to Class Members. However, if written objections
24 are submitted, Class Counsel shall notify such objecting Class Members of the new date and time set
25 for the Final Approval Hearing.

26 IT IS SO ORDERED.

27 Date: _____

The Honorable Matthew C. Braner
Judge of the Superior Court