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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Michael Robinson; Christine Robinson,)

No. CV 09-2066-PHX-JAT

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Plaintiffs,)

ORDER

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vs.)

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Wells Fargo Bank, N.A., Michael A.)
Bosco, Jr.)

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Defendants.)

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On October 8, 2009, the only remaining Defendant, Wells Fargo Bank, N.A., filed a motion to dismiss. Plaintiffs did not respond. On November 13, 2009, Defendant filed a motion for summary disposition. Plaintiffs did not respond.

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On December 12, 2009, Plaintiffs filed a “motion to stay” stating that their home had been sold via a Trustee Sale on November 23, 2009. Plaintiffs seek to have this Court “restore” the title of the property to the Plaintiffs and “stay” Defendant from conducting any future foreclosures sales.

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On this record, the Court does not believe it has the authority to grant Plaintiffs the relief they seek. Specifically, Plaintiffs’ recounting of the facts suggests that title to the home has now been transferred to a person/entity that is not a party to this case. Without such third-person being in this case, the Court does not believe it can divest said person of title, as Plaintiffs request.

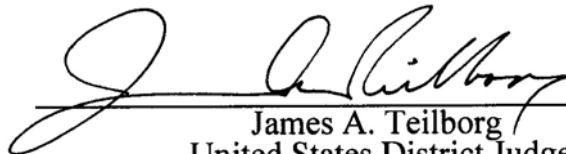
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Therefore,

1 IT IS ORDERED that Plaintiffs shall file a supplemental brief by Monday, December
2 14, 2009 citing a specific procedural basis on which this Court can transfer title to the house
3 from a third party who is not a party to this case to Plaintiffs. If Plaintiffs fail to file their
4 supplemental brief, the Court will deny the motion to stay.

5 IT IS FURTHER ORDERED that, by Monday, December 14, 2009, Plaintiffs shall
6 respond to the pending motion to dismiss.¹ If Plaintiffs fail to respond, this Court will deem
7 the failure to respond to be consent to the granting of the motion and will dismiss this case.
8 *See* Local Rule 7.2(i); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Because the Court
9 would be dismissing the case as a sanction for Plaintiffs' failure to respond, the Court will
10 not leave the case open to permit Plaintiffs to file an amended complaint. *See Schreiber*
11 *Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393, 1401 (9th Cir. 1986).

12 DATED this 10th day of December, 2009.

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16 James A. Teilborg
17 United States District Judge
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28 ¹ The response was due October 26, 2009.