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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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Elvin G. Grundy, Jr. and Willie Ruth Grundy,

No. CV10-1542 PHX DGC

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Plaintiffs,

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ORDER

vs.

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JP Morgan Chase Bank, N.A., et al.,

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Defendants.

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On June 25, 2010, Plaintiffs filed their initial complaint in Maricopa County Superior Court against Defendants JP Morgan Chase Bank, The Bear Stearns Company, EMC Mortgage Corporation, Aames Funding Corporation, John Vella, Cassiopeia Saicawalo, and Quality Loan Service Corporation. Doc. 1-1 at 13-46. On July 21, 2010 Defendant Chase Bank removed the case to this Court on the ground that it raised federal questions. Doc. 1. As of the date of removal, Chase Bank was the only Defendant that had been served. *See* Doc. 1-3 at 1-3. It appears that no Defendant has been served since the time of removal.

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On August 12, 2010, Plaintiffs filed a motion for preliminary injunction and for temporary restraining order. Doc. 11. In the motion, Plaintiffs request the Court to enjoin Defendant Quality Loan Service Corporation from conducting a trustee's sale of their home that is scheduled for August 23, 2010. *Id.* at 2. Plaintiffs did not request expedited consideration of their motion.

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Because Plaintiffs have not served any Defendants other than Chase Bank, no other Defendant has received proper notice of their motion for a temporary restraining order and

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1 preliminary injunction. Federal Rule of Civil Procedure 65 does not allow a court to issue
2 a preliminary injunction without notice to the adverse party. Fed. R. Civ. P. 65(a). Rule 65
3 also does not allow a court to issue a temporary restraining order without notice to the
4 adverse party unless the party seeking the order presents facts showing immediate injury and
5 that efforts have been made to give notice. Fed. R. Civ. P. 65(b)(1). Plaintiffs have made
6 no showing that they have given notice or made any efforts to give notice, and the facts
7 suggest that they cannot. This case has been pending since June and has been pending before
8 this Court since July, and yet Plaintiffs have not effected service on any Defendant other than
9 Chase Bank. This is particularly problematic as to Quality Loan Service Corporation, as it
10 is that Defendant's activities that Plaintiffs seek to enjoin. Plaintiffs have not shown that
11 efforts have been made to give notice to Defendants, have not shown cause for their delay
12 in serving Defendants, have not requested issuance of a temporary restraining order without
13 notice, and, even if they have, have not shown cause for the Court to issue such an order
14 without notice under Rule 65(b)(1). Defendants must receive notice of the complaint and
15 motion.

16 The Court will deny Plaintiffs' motion for a temporary restraining order and
17 preliminary injunction. Plaintiffs may re-file the motions with proper and timely notice to
18 Defendants.

19 **IT IS ORDERED** that Plaintiffs' motion for a preliminary injunction and temporary
20 restraining order (Doc. 11) is **denied**.

21 DATED this 16th day of August, 2010.

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26 David G. Campbell
27 United States District Judge
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