## UNITED STATES DISTRICT CURT<br/>CENTRAL DISTRICT OF CALIFURIATION OF CALIFURIATICON OF

Present: The Honorabl	e CH	HRISTINA A. SNYDER			
CATHERINE JEANG		Not Present	N/A		
Deputy Clerk		Court Reporter / Recorder	Tape No.		
Attorneys Present for Plaintiffs:		intiffs: Attorneys Preser	Attorneys Present for Defendants:		
Not Present		Not F	Not Present		
U		bers:) ORDER DENYING APPLI ARY RESTRAINING ORDER A			

**CASE** (filed 5/8/2012)

## I. INTRODUCTION

Plaintiffs Marvin E. Linares and Ana R. Linares, proceeding *pro se*, filed the instant action in Los Angeles County Superior Court on November 4, 2011, seeking to prevent the foreclosure sale of their home located at 1134 W. 61st Street, Los Angeles, CA, 90044. Among the 29 claims pled in the complaint, plaintiffs asserted three federal claims for: (1) violation of the Truth in Lending Act, 15 U.S.C. § 1601 ("TILA"); (2) violation of the Real Estate Settlement and Procedures Act, 12 U.S.C. § 2601 ("RESPA"), and (3) violation of the Fair Credit Reporting Act/Fair and Accurate Credit Transactions Act, 15 U.S.C. § 1681 ("FACTA"). The action was removed to this Court on December 22, 2011, on the basis of federal question jurisdiction.

By order dated February 6, 2012, the Court granted defendants' Quality Loan Service Corporation ("Quality Loan"), First Mortgage Corporation ("First Mortgage"), Mortgage Electronic Registration Systems, Inc. ("MERS"), and Hacienda Service Corporation ("Hacienda") motion to dismiss plaintiffs' TILA claim with prejudice and plaintiffs' RESPA and FACTA claims without prejudice. The Court declined to exercise supplemental jurisdiction over the remaining 26 state law claims. The Court ordered the parties to mediation and enjoined defendants from conducting a foreclosure sale for ninety (90) days from the previously scheduled sale of February 8, 2012.

## UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

	<b>CIVIL MINUTES - GENER</b>	<b>JS-6</b>		
Case No.	CV 11-10633 CAS (CWx)	Date	May 8, 2012	
Title	MARVIN E. LINARES, ET AL. v. FIRST MORTGAGE CORPORATION, ET AL.			

On May 7, 2012, the mediator filed a report, stating that the parties could not reach a resolution. On May 8, 2012, plaintiffs filed several documents. First, plaintiffs substituted attorney Kaivan Harouni in place of Ana Linares. Second, plaintiffs voluntarily dismissed Hacienda and MERS pursuant to Fed. R. Civ. P. 41(a). Third, plaintiffs filed a first amended complaint ("FAC"). Finally, plaintiffs filed an application for a temporary restraining order ("TRO").

The FAC asserts five claims for: (1) negligence; (2) violation of Cal. Civ. Code 2924f; (3) negligent violation of Cal. Civ. Code 2924c; (4) violation of Cal. Bus. & Prof. Code 17200 <u>et seq.</u>; and (5) preliminary and permanent injunction. Because plaintiffs elected not to reassert any dismissed federal claims, the Court no longer has a basis to exercise subject-matter jurisdiction over this action.<sup>1</sup>

Accordingly, the TRO application is DENIED without prejudice and the case is hereby REMANDED to Los Angeles County Superior Court.

IT IS SO ORDERED.

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Initials of Preparer	СМЈ		

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<sup>&</sup>lt;sup>1</sup>Defendants removed on the basis of federal question jurisdiction. Even had defendants asserted diversity jurisdiction in their notice of removal, complete diversity among the parties is lacking as both plaintiffs and First Mortgage are California citizens.