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BARCLAYS CAPITAL REAL ESTATE, INC. dba HOMEQ SERVICING
erroneously named as Homeq Servicing

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOHANN A. NOOL and ARLENE G. NOOL, } Case No.: 09-00885-OWW-DLB

Plaintiffs,

V.

HOMEQ SERVICING, a corporation;
OPTION MORTGAGE LENDING
INC., a corporation, MORTGAGE
ELECTRONIC REGISTRATION
SYSTEM INC., a corporation; OLD
REPUBLIC NATIONAL TITLE
INSURANCE COMPANY, a
corporation; and DOES 1 through 200,
inclusive,

Defendants.

Case No.: 09-00885-OWW-DLB

**[PROPOSED] ORDER GRANTING
DEFENDANT BARCLAYS
CAPITAL REAL ESTATE, INC.
DBA HOMEQ SERVICING'S
MOTION TO DISMISS**

**Hearing Date: August 31, 2009
Hearing Time: 10:00 a.m.
Courtroom 3**

Defendant Barclays Capital Real Estate, Inc. dba Homeq Servicing's

Motion to Dismiss (the “Motion”) came before this Court for hearing on August 31, 2009. Plaintiffs appeared by their counsel, Timothy F. Umbreit of Bander Law Firm. Defendant appeared by its counsel, J. Owen Campbell of Houser & Allison, APC.

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ORDER

- 1 -

Doc. 17

1 After consideration of the written submissions and oral argument, the Court
2 issued its memorandum decision regarding Defendant's Motion. The
3 memorandum decision signed September 3, 2009 and entered September 4, 2009
4 as Document 14 in this matter sets forth the Court's reasoning in detail.
5

6 For the reasons set forth in the memorandum decision, the Court hereby
7 GRANTS Defendant's Motion to Dismiss as follows:

8 1. Plaintiffs' first claim for relief for "Violation of the Truth in Lending
9 Act (TILA), 15 U.S.C. §§ 1610, et seq." is DISMISSED WITHOUT LEAVE TO
10 AMEND.

11 2. Plaintiffs' second claim for relief for "Violation of Cal. Civ. Code §
12 2923.6" is DISMISSED WITH LEAVE TO AMEND.

13 3. Plaintiffs' third claim for relief for "Federal Unfair Debt Collection
14 Practices" is DISMISSED WITHOUT LEAVE TO AMEND.

15 4. Plaintiffs' fourth claim for relief for "Rosenthal Unfair Debt
16 Collection Practices" is DISMISSED WITHOUT LEAVE TO AMEND.

17 5. Plaintiffs' fifth claim for relief for "Predatory Lending/Fraud" is
18 DISMISSED WITHOUT LEAVE TO AMEND.

19 6. Plaintiffs' sixth claim for relief for "Fraud" is DISMISSED
20 WITHOUT LEAVE TO AMEND.

7. Plaintiffs' seventh claim for relief for "Violation of Bus. & Prof. Code §§ 17200, et seq. – Unlawful Business Practices" is DISMISSED WITH LEAVE TO AMEND.

8. Plaintiffs' eighth claim for relief for "Breach of Fiduciary Duty" is DISMISSED WITHOUT LEAVE TO AMEND.

9. Plaintiffs' ninth claim for relief for "Quiet Title Action" is DISMISSED WITHOUT LEAVE TO AMEND.

10. Plaintiffs' tenth claim for relief for "Breach of Covenant of Good Faith and Fair Dealing" is DISMISSED WITHOUT LEAVE TO AMEND.

IT IS SO ORDERED.

Date: 9-9-09

Oliver W. Wanger
United States District Judge

Oliver W. Wanger
United States District Judge