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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

LAZARO S. COYOTZI, et al.,

CASE NO. CV F 09-1036 LJO SMS

Plaintiffs,

**ORDER ON MOTION FOR TEMPORARY
RESTRAINING ORDER**
(Doc. 9.)

vs.

COUNTRYWIDE FINANCIAL
CORPORATION, et al.,

Defendants.

_____ /

INTRODUCTION

Plaintiffs Lazaro S. Coyotzi and Seyla Coyotzi (collectively “plaintiffs”) seek a temporary restraining order (“TRO”) to enjoin an August 14, 2009 unlawful detainer trial in Stanislaus County Superior Court following the trustee’s sale of their Modesto home. Plaintiffs allege 14 tort, breach of contract and related claims arising from their home loan, default and foreclosure. For the reasons discussed below, this Court DENIES plaintiffs a TRO to enjoin the unlawful detainer trial.

DISCUSSION

Younger Abstention

_____ The abstention doctrine under *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746 (1971), precludes plaintiffs’ requested injunctive relief. *Younger* abstention is proper where (1) there are ongoing state judicial proceedings, (2) that implicate important state interests, and (3) there is an adequate opportunity in the state proceedings to raise federal questions. *Middlesex County Ethics Comm. v. Garden State Bar*

1 *Ass 'n*, 457 U.S. 423, 432, 102 S.Ct. 2515, 2521 (1982); *Confederated Salish v. Simonich*, 29 F.3d 1398,
2 1405 (9th Cir. 1994). The “policy objective behind *Younger* abstention is to avoid unnecessary conflict
3 between state and federal governments.” *United States v. Morros*, 268 F.3d 695, 707 (9th Cir. 2001).
4 *Younger* permits “state courts to try state cases free from interference by federal courts,” particularly
5 where the party to the federal case may fully litigate his claim before the state court. *Hicks v. Miranda*,
6 422 U.S. 332, 349, 95 S.Ct. 2281 (1975) (quoting *Younger*, 401 U.S. at 43, 91 S.Ct. 746). *Younger*
7 “contemplates the outright dismissal of the federal suit, and the presentation of all claims, both state and
8 federal, to the state courts.” *Gibson v. Berryhill*, 411 U.S. 564, 577, 93 S.Ct. 1689 (1973); *Beltran v.*
9 *State of California*, 871 F.2d 777, 782 (9th Cir. 1988). “*Younger* generally directs federal courts to
10 abstain from granting injunctive or declaratory relief that would interfere with pending state judicial
11 proceedings.” *Martinez v. Newport Beach City*, 125 F.3d 777, 781 (9th Cir. 1997), *overruled on other*
12 *grounds, Green*, 255 F.3d 1086.

13 Plaintiffs’ requested injunctive relief would interfere with underlying state court proceedings.
14 *Younger* directs this Court to abstain from doing so. The state court proceedings provide plaintiffs an
15 adequate opportunity to address issues raised in their papers seeking injunctive relief. This Court is not
16 in a position to interject into ongoing state court proceedings.

17 **Injunction Merits**

18 As to the merits, plaintiffs fail to demonstrate that they are entitled to injunctive relief. The
19 purpose of a preliminary injunction is to preserve the status quo if the balance of equities so heavily
20 favors the moving party that justice requires the court to intervene to secure the positions until the merits
21 of the action are ultimately determined. *University of Texas v. Camenisch*, 451 U.S. 390, 395 (1981).
22 A preliminary injunction is available to a plaintiff who “demonstrates either (1) a combination of
23 probable success and the possibility of irreparable harm, or (2) that serious questions are raised and the
24 balance of hardship tips in its favor.” *Arcamuzi v. Continental Air Lines, Inc.*, 819 F. 2d 935, 937 (9th
25 Cir. 1987). Under either approach the plaintiff “must demonstrate a significant threat of irreparable
26 injury.” *Arcamuzi*, 819 F.2d at 937. Also, an injunction should not issue if the plaintiff “shows no
27 chance of success on the merits.” *Arcamuzi*, 819 F.2d at 937. At a bare minimum, the plaintiff “must
28 demonstrate a fair chance of success of the merits, or questions serious enough to require litigation.”

1 *Arcamuzi*, 819 F.2d at 937.

2 When a government agency is involved, it must “be granted ‘the widest latitude in the dispatch
3 of its own internal affairs,’” *Gomez v. Vernon*, 255 F.3d 1118, 1128 (9th Cir. 2001) (quoting *Rizzo v.*
4 *Goode*, 423 U.S. 362, 378-79, 96 S.Ct. 598, 608 (1976)), and “[w]hen a state agency is involved, these
5 considerations are, if anything, strengthened because of federalism concerns,” *Gomez*, 255 F.3d at 1128.
6 “[A]ny injunctive relief awarded must avoid unnecessary disruption to the state agency’s ‘normal course
7 of proceeding.’” *Gomez*, 255 F.3d at 1128 (quoting *O’Shea v. Littleton*, 414 U.S. 488, 501, 94 S.Ct.
8 669, 679 (1974)).

9 Plaintiffs fail to demonstrate probable success on their claims or significant threat of irreparable
10 injury, especially given that the underlying state proceedings apparently continue. Plaintiffs make a
11 meaningless attempt to demonstrate a fair chance of success on the merits or the existence of serious
12 questions to require litigation. In essence, plaintiffs claim they were unqualified for their home loan and
13 that defendants breached fiduciary and related duties. “The relationship between a lending institution
14 and its borrower-client is not fiduciary in nature.” *Nymark v. Heart Fed. Savings & Loan Assn*, 231
15 Cal.App.3d 1089, 1093, n. 1, 283 Cal.Rptr. 53 (1991) (citing *Price v. Wells Fargo Bank*, 213 Cal.App.3d
16 465, 476-478, 261 Cal.Rptr. 735 (1989)). A commercial lender is entitled to pursue its own economic
17 interests in a loan transaction. *Nymark*, 231 Cal.App.3d at 1093, n. 1, 283 Cal.Rptr. 53 (citing *Kruse v.*
18 *Bank of America*, 202 Cal.App.3d 38, 67, 248 Cal.Rptr. 217 (1988)). Absent “special circumstances”
19 a loan transaction is “at arms-length and there is no fiduciary relationship between the borrower and
20 lender.” *Oaks Management*, 145 Cal.App.4th at 466, 51 Cal.Rptr.3d 561 (“the bank is in no sense a true
21 fiduciary”).

22 This Court is familiar with plaintiffs’ claims which many prior defaulted borrowers have pursued
23 unsuccessfully. Plaintiffs offer nothing to suggest a fair chance of success on the merits. Plaintiffs’
24 TRO request appears as a further delay tactic given its belated filing mere days before the unlawful
25 detainer trial. Plaintiffs face a pending motion to dismiss to cast further doubt on probable success of
26 their claims.

27 Furthermore, equitable remedies are “unavailable absent a showing of irreparable injury, a
28 requirement that cannot be met where there is no showing of any real or immediate threat that the

1 plaintiff will be wronged again – a ‘likelihood of substantial and immediate irreparable injury.’” *City*
2 *of Los Angeles v. Lyons*, 461 U.S. 95, 111, 103 S.Ct. 1660, 1670 (1983) (quoting *O’Shea*, 414 U.S. at
3 502, 94 S.Ct. at 679). In this instance, plaintiffs allege no identifiable, potentially repeatable wrongs,
4 especially given completion of the trustee’s sale. If plaintiffs prevail, their injury will not go
5 unrecompensed because they have an adequate remedy at law. *Lyons*, 461 U.S. at 111, 103 S.Ct. at
6 1670. Plaintiffs are not entitled to equitable relief because there is no allegation that they will be
7 wronged again.

CONCLUSION

8 For the reasons discussed above, this Court DENIES plaintiffs a TRO to enjoin the unlawful
9 detainer trial.

10 IT IS SO ORDERED.

11 **Dated: August 11, 2009**

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE

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