

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

-----oo0oo-----

DENA CRISOTOMO CARINO;  
ALLAN CHRISTOPHER DIWA,

Plaintiff,

v.

NO. CIV. S-09-2005 FCD/KJM

MEMORANDUM AND ORDER

STANDARD PACIFIC CORP;  
STANDARD PACIFIC MORTGAGE,  
INC. fka FAMILY HOME LENDING,  
INC.; CHASE HOME FINANCE LLC;  
et al.,

Defendants.

-----oo0oo-----

This matter is before the court on defendants Standard Pacific Corporation and Standard Pacific Mortgage, Inc.'s motion to compel arbitration and stay the case pending arbitration.<sup>1</sup> In this action, plaintiffs Dena Carino and Allan Diwa ("plaintiffs") allege fourteen claims for relief against moving defendants,

---

<sup>1</sup> Because oral argument will not be of material assistance, the court orders this matter submitted on the briefs. E.D. Cal. L.R. 230(g).

1 among others,<sup>2</sup> premised on the allegation that the loans  
2 plaintiffs obtained from defendants were procured as part of a  
3 purported scheme of securitization of risky mortgage loans.  
4 (FAC, filed July 20, 2009.) Plaintiffs seek by this action to  
5 rescind the loans and quiet title to their residential property  
6 by suing their lenders, their mortgage broker and the developer  
7 of the subject property, alleging claims against defendants for  
8 federal truth and lending violations, civil RICO violations,  
9 negligence, breach of contract, breach of fiduciary duty, fraud,  
10 intentional infliction of emotional distress and unfair business  
11 practices.

12 Plaintiffs filed a response to the motion, stating they did  
13 not oppose the motion and conceding that the subject Agreements  
14 required arbitration of the instant dispute. (Docket #15.) As  
15 such, the court HEREBY grants defendants' motion to compel  
16 arbitration. This case is now STAYED pending the parties'  
17 arbitration.<sup>3</sup> The parties are directed to inform the court of  
18 the outcome of the arbitration within 20 days of the arbitrator's  
19 decision.

---

21  
22 <sup>2</sup> Plaintiff also names as defendants Homecomings  
23 Financial Services, LLC, Mortgage Electronic Registration  
24 Systems, Inc., HSBC Bank USA and Chase Home Finance, LLC. After  
25 removing the case, these defendants filed a motion to dismiss  
26 plaintiffs' first amended complaint, which the court deferred  
27 ruling on until consideration of the pending motion to compel  
28 arbitration. (Docket #s 4, 7, 14.) These defendants have not  
joined or filed a response to the instant motion.

26 <sup>3</sup> The stay applies only to the instant case and the named  
27 parties in this matter. The court cannot, as requested by  
28 plaintiffs, preclude the filing of any claims or prosecution of  
any actions against plaintiffs which are not the subject of this  
lawsuit.

1           The pending motion to dismiss (Docket # 4, 7) is DENIED as  
2 MOOT. Defendants may re-notice the motion, if appropriate, when  
3 the stay of this case is lifted.

4           IT IS SO ORDERED.

5           DATED: January 15, 2010



---

FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28