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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LINA GLADKIHK,

Plaintiff,

v.

NATIONAL CITY MORTGAGE; PNC  
MORTGAGE; GREEN TREE SERVICING,  
LLC; FANNIE MAE,

Defendants.

No. 2:10-cv-00852-MCE-DAD

MEMORANDUM AND ORDER

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This action arises out of a mortgage loan transaction in which Plaintiff Lina Gladkihk ("Plaintiff") financed her home in December 2004. Presently before the Court is a Motion by Defendants Federal National Mortgage Association ("Fannie Mae") and Green Tree Servicing, LLC (collectively "Defendants") to Dismiss the claims alleged against them in Plaintiff's Complaint for failure to state a claim upon which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6).

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1 Concurrently, Plaintiff has filed a Motion for Preliminary  
2 Injunction against Defendant Green Tree Servicing, LLC pursuant  
3 to Federal Rule of Civil Procedure 65(a).<sup>1</sup>

4 Plaintiff has failed to timely file an opposition to  
5 Defendants' Motion to Dismiss. Pursuant to Local Rule 230(c),  
6 opposition to a motion must be filed not less than fourteen (14)  
7 days prior to the date of the hearing. The date of the hearing  
8 on motion was set for June 10, 2010. Fourteen (14) days prior to  
9 the hearing was May 27, 2010. No opposition was filed as  
10 required.

11 In light of the fact that no opposition was filed by  
12 Plaintiff, Defendants' Motion to Dismiss (Docket No. 6) is  
13 GRANTED with leave to amend.

14 With Plaintiff's claims presently dismissed, Plaintiff has  
15 failed to demonstrate the requisite likelihood of success on the  
16 merits to warrant imposition of a preliminary injunction. See  
17 Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009).

18 Moreover, Plaintiff's Motion is contradictory in terms.  
19 Plaintiff requests that the Court enjoin foreclosure on her home,  
20 however, she indicates that the home was already sold on April 1,  
21 2010, and that a Notice to Quit was issued April 6, 2010 (Mot.  
22 For Prelim Inj. 4; Compl. 8:4-8). The Court cannot, on these  
23 grounds, provide the equitable relief requested. Plaintiff's  
24 Motion for Preliminary Injunction (Docket No. 9) is DENIED.

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27 <sup>1</sup> Because oral argument will not be of material assistance,  
28 the Court orders this matter submitted on the briefs. E.D. Cal.  
Local Rule 230(g).

1 Plaintiff may file an amended complaint not later than  
2 twenty (20) days after the date this Memorandum and Order is  
3 filed electronically. If no amended complaint is filed within  
4 said twenty (20)-day period, without further notice, Plaintiff's  
5 claims will be dismissed without leave to amend.

6 IT IS SO ORDERED.

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8 Dated: June 22, 2010

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12 MORRISON C. ENGLAND, JR.  
13 UNITED STATES DISTRICT JUDGE  
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