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Attorney for Plaintiff, Cory Narog

**THE UNITED STATES DISTRICT
IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

Cory Narog,
Plaintiff,

New York Community Bank, a New York State Chartered Bank, MTC Financial Inc., a California Corporation, dba Trustee Corp., Federal Home Loan Mortgage Corporation,
Defendants.

Case No. 2:10-cv-03265-JAM-KJM

Opposed [REDACTED] ORDER DENYING MOTION BY DEFENDANT MTC FINANCIAL, INC. dba TRUSTEE CORP. TO DISMISS FIRST AMENDED COMPLAINT ASSERTING FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

[Fed. R. Civ. P. Rule 12(b)(6) and 56]

Hearing:

Date: February 23, 2011

Time: 9:30 a.m.

Crt. Rm: 6

Honorable Judge John A. Mendez

The Motion for dismissal according to Fed. R. Civ. P., Rule 12(b)(6) by Defendant MTC Financial Inc., a California Corporation, dba Trustee Corp. came on regularly for hearing at or about 9:30 a.m. on February 23, 2011 in Courtroom 6, of the above entitled Court, Honorable Judge John A. Mendez, presiding. This motion was heard in conjunction with Motions for dismissal according to Fed. R. Civ. P., Rule 12(b)(6), or in the alternative for Summary Judgment under Rule 56 and for Expungement of Lis Pendens, by Defendant New York Community Bank and Defendant Federal Home Loan Mortgage Corporation.

[Proposed] ORDER DENYING MOTION BY DEFENDANT MTC FINANCIAL, INC. dba TRUSTEE CORP. TO DISMISS FIRST AMENDED COMPLAINT ASSERTING FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

1 James K. Perry, A Professional Corporation, by James K. Perry, appeared as the attorney for
2 Plaintiff Cory Narog; Defendant MTC Financial, Inc. dba Trustee Corps appeared by Keith Van Dyke of
3 the Law Office of Turner, Reynolds, Greco and O'Hara.

4 Damian Richard of the Law Office of Malcolm & Cisneros, appeared on behalf of Defendant
5 New York Community Bank and Defendant Federal Home Loan Mortgage Corporation.

6 The Court having considered the files and records in this action, including the oral and written
7 arguments of counsel and good cause appearing, IT IS ORDERED:

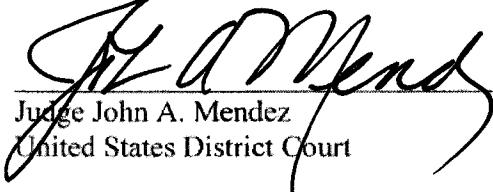
8 1. Defendant MTC Financial, Inc. s' Request for Judicial Notice of Exhibits 1-5 is granted;
Defendant MTC Financial, Inc. failed to include Exhibits 6 and 7.

9 2. Plaintiff's Request for Judicial Notice of PRFJN: Exhibits A-G as presented in the companion
10 motion filed by Defendant Federal Home Loan Corporation and Defendant New York Community Bank
11 is granted;

12 3. The motion for dismissal according to Fed. R. Civ. P., Rule 12(b)(6) by Defendant MTC
13 Financial, Inc. dba Trustee Corps is denied. Plaintiff has plead ~~and shown~~ sufficient facts to support his
14 claim to set aside the foreclosure "sale" of the subject real property to Defendant Federal Home Loan
15 Mortgage Corporation on September 30, 2010, and upon which Defendant MTC may have liability for
16 the failure to comply with the mandatory statutory notice required by the foreclosure provisions of
17 California Civil Code 2924 et. seq.; and although Plaintiff failed to originally plead "tender" in his
18 original state court complaint, Plaintiff has plead ~~in the~~ ~~in~~ a proposed Second Amended Complaint ~~and the~~
~~and~~ ~~shows~~ ~~shows~~ that includes an allegation Plaintiff did in fact offer to cure all defaults on the loan
19 simultaneously with the filing of the original state court complaint.

20 Dated: February 9, 2011

March 9


Judge John A. Mendez
United States District Court

24 Approved as to Form:

25 Law Office of Turner, Reynolds, Greco and O'Hara

26 By:

27 Keith Van Dyke, Attorney for Defendant MTC Financial Inc.,
a California Corporation, dba Trustee Corp.

1 Law Office of Malcolm & Cisneros

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3 By: _____

4 Damian Richard, Attorney for
5 Defendant New York Community Bank and
6 Defendant Federal Home Loan Mortgage
7 Corporation.

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