

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

JOSE CRUZBERTO DELGADO and MARIA )  
DE LA LUZ DELGADO, ) 2:11-cv-1258-GEB-CKD  
Plaintiffs, )  
v. )  
NATIONAL CITY MORTGAGE, NATIONAL )  
CITY BANK, PNC BANK, N.A., GREEN )  
TREE SERVICING, LLC, and DOES 1 )  
THROUGH 100, inclusive, )  
Defendants. )  
ORDER TO SHOW CAUSE AND  
CONTINUING STATUS (PRETRIAL  
SCHEDULING) CONFERENCE; FED.  
R. CIV. P. 4 (M) NOTICE

The May 11, 2011, Order Setting Status (Pretrial Scheduling) Conference scheduled a status conference in this case on August 29, 2011, and required the parties to file a joint status report no later than fourteen (14) days prior to the scheduling conference. The May 11, 2011 Order further required that a status report be filed regardless of whether a joint report could be procured. No status report was filed as ordered.

Therefore, Plaintiff and Defendants National City Mortgage, National City Bank, and PNC Bank, N.A., are Ordered to Show Cause ("OSC") in a writing to be filed no later than 4:00 p.m. on September 6, 2011, why sanctions should not be imposed against them and/or their counsels under Rule 16(f) of the Federal Rules of Civil Procedure for failure to file a timely status report. The written response shall also

1 state whether the parties or their counsel is at fault, and whether a  
2 hearing is requested on the OSC.<sup>1</sup> If a hearing is requested, it will be  
3 held on October 3, 2011, at 9:00 a.m., just prior to the status  
4 conference, which is rescheduled to that date and time. A status report  
5 shall be filed no later than fourteen (14) days prior to the status  
6 conference.

7 Further, Plaintiff is notified under Rule 4(m) of the Federal  
8 Rules of Civil Procedure that if Green Tree Servicing, LLC is not served  
9 with process within the 120 day period prescribed in that Rule, it may  
10 be dismissed as a defendant in this action unless Plaintiff provides  
11 proof of service and/or "shows good cause for the failure" to serve  
12 within this prescribed period in a filing due no later than 4:00 p.m. on  
13 September 14, 2011.

14 IT IS SO ORDERED.

15 Dated: August 25, 2011

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17 GARLAND E. BURRELL, JR.  
18 United States District Judge

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25 <sup>1</sup> "If the fault lies with the attorney, that is where the impact  
26 of sanction should be lodged. If the fault lies with the clients, that  
27 is where the impact of the sanction should be lodged." Matter of  
28 Sanction of Baker, 744 F.2d 1438, 1442 (10th Cir. 1984), cert. denied,  
471 U.S. 1014 (1985). Sometimes the faults of attorneys, and their  
consequences, are visited upon clients. In re Hill, 775 F.2d 1385, 1387  
(9th Cir. 1985).