

1 LORI J. GUALCO (SBN 95232)  
 2 FRANK LAW GROUP, P.C.  
 3 1517 Lincoln Way  
 4 Auburn, CA 95603  
 5 Tel: (530) 887-8585  
 6 Fax: (530) 887-8586

7 Attorneys for Defendants  
 8 EDWARD A. TAVARES AND ROSEMARY T. TAVARES

9 MICHAEL COGAN (SBN 65479)  
 10 Attorney at Law  
 11 1388 Court Street, Suite E  
 12 Redding, CA 96001  
 13 Tel: (530) 246-1112  
 14 Fax: (530) 243-6079

15 Attorneys for Plaintiff  
 16 YREKA WESTERN RAILROAD COMPANY

17 **UNITED STATES DISTRICT COURT**  
 18 **EASTERN DISTRICT OF CALIFORNIA**

19 YREKA WESTERN RAILROAD COMPANY,  
 20  
 21 Plaintiff,  
 22 v.

23 EDWARD A. TAVARES, ROSEMARY T.  
 24 TAVARES, PLM LENDER SERVICES, INC.,  
 25  
 26 Defendants.

**CASE NO. 2:11-CV-01868-WBS-CMK**

**ORDER CONFIRMING  
 SETTLEMENT AND STAY OF  
 FURTHER PROCEEDINGS**

**Date: November 9, 2011**  
**Time: 1:30 p.m.**  
**Courtroom.: 5, 14<sup>th</sup> Floor**  
**Judge William B. Shubb**  
**Settlement Judge Gregory G. Hollows**  
**Complaint Filed: July 18, 2011**

1 Pursuant to the Fourth Stipulation of the parties and an Order signed by Judge William B.  
2 Shubb, this matter came on regularly for a settlement conference at the above-stated date and  
3 time before Magistrate Judge Gregory G. Hollows. Pursuant to the interim Order of Magistrate  
4 Judge Hollows, the parties have reached a settlement of this matter which is hereby confirmed by  
5 the Court as follows:

6 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that above entitled matter  
7 shall be settled pursuant to the stipulation of the parties and the Order of this Court on the  
8 following terms:

- 9 1. Plaintiff, Yreka Western Railroad Company agrees to pay Defendants Edward A.  
10 Tavares and Rosemary T. Tavares the sum of Two Hundred Twenty Five Thousand  
11 and no/100 Dollars (\$225,000.00) in full satisfaction of all claims in the Action,  
12 including that certain Promissory Note dated April 11, 2007 (“Note”), in the principal  
13 sum of \$175,000.00 and secured by a Deed of Trust of the same date, encumbering  
14 the Plaintiff’s real and personal property recorded on April 12, 2007, as Document  
15 No. 07-00046905 and Defendants agree to accept said sum in full satisfaction of said  
16 claims and said Note, inclusive of all interest, foreclosure fees and costs and  
17 attorney’s fees provided the terms of this settlement are timely met.
- 18 2. The payment of the settlement sum of \$225,000 will be paid as follows: (a) Plaintiff  
19 will pay to Defendants by certified or cashier’s check the sum of \$25,000 to be  
20 delivered to Defendants counsel’s office; (b) the current \$25,000 cash bond posted by  
21 Plaintiff in support of the Temporary Restraining Order issued by this Court will be  
22 released to Defendants care of their attorney; and (c) the balance of \$175,000 will be  
23 paid within ninety (90) days of the issuance of this Order. The initial payment in sub-  
24 sections (a) above shall be paid on or before November 23, 2011 and the payment in  
25 sub-section (b) above shall be paid by the Court as soon as practicable.
- 26 3. All proceedings in this case shall be stayed for 90 days from the issuance of this  
27 Order to allow the settlement payments to be complied with by the Plaintiff. During  
28 this stay, the Defendants agree that no further foreclosure proceeding (judicial or non-

1 judicial) will be conducted, and the Defendants will not undertake any further action  
2 to collect on the debt. The Temporary Restraining Order issued by this Court is  
3 hereby dissolved and the Motion for Preliminary Injunction currently set for hearing  
4 on December 5, 2011 at 2:00 p.m. is dismissed, without prejudice, and the hearing is  
5 taken off Calendar. The Status (Pre-trial) Conference currently set for hearing on  
6 January 9, 2012 at 2:00 p.m. in Courtroom 5 is continued to hearing on **March 5,**  
7 **2012 at 2:00 p.m.** in Courtroom 5.

- 8 4. The cash bond in the sum of \$25,000 posted with the Clerk of the Court is hereby  
9 released to the Defendants and the Clerk is ordered to pay the bond sum of \$25,000 to  
10 defendants, Edward A. Tavares and Rosemary T. Tavares, care of their attorney, Lori  
11 J. Gualco, Frank Law Group, P.C., 1517 Lincoln Way, Auburn, California 95603.
- 12 5. If the full settlement payment of \$225,000 is paid within the 90 day stay period, the  
13 Plaintiff shall file a request for dismissal with prejudice and this matter will be  
14 dismissed with both sides to bear their own attorneys' fees and costs. Upon full  
15 payment, Defendants will cause the trustee under the Deed of Trust to record a Deed  
16 of Reconveyance of the Deed of Trust in accordance with California law.
- 17 6. If the terms of the agreed upon settlement as set forth herein are not met by either  
18 party, the stay will be automatically lifted at the end of the 90 day stay period, and the  
19 case shall move forward. The terms of this settlement shall then be null and void.  
20 All sums due and owing under the terms and conditions of the Note shall be then  
21 immediately due and owing, except that Defendants shall credit the payment by  
22 Plaintiff of the \$50,000 required in Paragraph 2 above to the principal owing as of the  
23 date of payment, provided the payment is made by Plaintiff. Defendants agree not to  
24 take any action to collect on the Note or foreclose under the terms of the Deed of  
25 Trust or California law for a period of 10 days after the end of the 90 day stay period.  
26 This 10 day period is to allow Plaintiff time to re-apply for a Temporary Restraining  
27 Order. Plaintiff waives any defenses to the payment of the \$50,000, except for credit  
28 or off-set to principal. The \$50,000 payment is non-refundable.

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

7. This Order shall be binding on Defendants' successors and assigns.

Dated: November 17, 2011



WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE

The parties have stipulated to settle this matter on the terms and conditions stated in the above Order of the Court and have approved the form of the Order.

Dated: November 17, 2011

FRANK LAW GROUP, P.C.

By /s/ Lori J. Gualco  
LORI J. GUALCO

Attorneys for Defendants EDWARD A. TAVARES  
AND ROSEMARY T. TAVARES

Dated: November 17, 2011

MICHAEL COGAN

/s/ Michael Cogan- authorized 11-17-11  
MICHAEL COGAN

Attorney for Plaintiff YREKA WESTERN  
RAILROAD COMPANY