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15 Attorneys for Defendants OCWEN LOAN
16 SERVICING, LLC, DEUTSCHE BANK NATIONAL
17 TRUST COMPANY, AS TRUSTEE FOR IXIS REAL
18 ESTATE CAPITAL TRUST 2005-HE3 MORTGAGE PASS THROUGH
19 CERTIFICATES, SERIES 2005-HE3, MORTGAGE ELECTRONIC
20 REGISTRATION SYSTEMS, INC., AND WESTERN PROGRESSIVE, LLC

17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA- EUREKA**

19 CHRISTOPHER GENE LYMAN;
20 JESSICA HELEN O'DANIEL,

21 Plaintiffs,

22 vs.

23 SAXON MORTGAGE SERVICES,
24 INC.; OCWEN LOAN SERVICING,
25 LLC; FIRST NLC FINANCIAL
26 SERVICES, LLC; and DOES 1
through 100 , inclusive

27 Defendants.
28

Case No: CV110433

**STIPULATION TO WITHDRAW
CURRENTLY FILED *EX PARTE*
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER, TO SCHEDULED
MOTION FOR PRELIMINARY
INJUNCTION, AND TO ALLOW
DEFENDANTS TO FILE
RESPONSIVE PLEADINGS TO
SECOND AMENDED
COMPLAINT**

1 **TO THIS HONORABLE COURT AND TO ALL PARTIES HEREIN:**
2 **COMES NOW** Plaintiffs CHRISTOPHER GENE LYMAN and JESSICA
3 HELEN O'DANIEL (“Plaintiffs”) and Defendants OCWEN LOAN SERVICING,
4 LLC, DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR
5 IXIS REAL ESTATE CAPITAL TRUST 2005-HE3 MORTGAGE PASS
6 THROUGH CERTIFICATES, SERIES 2005-HE3 (erroneously sued as
7 DEUTSCHE BANK NATIONAL TRUST COMPANY), DEUTSCHE BANK
8 NATIONAL TRUST COMPANY, AS TRUSTEE FOR IXIS REAL ESTATE
9 CAPITAL TRUST 2005-HE3 MORTGAGE PASS THROUGH CERTIFICATES,
10 SERIES 2005-HE3 (erroneously sued as IXIS REAL ESTATE CAPITAL TRUST
11 2004-HE3), MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,
12 AND WESTERN PROGRESSIVE, LLC (“Defendants”) (Defendants and
13 Plaintiffs shall hereinafter collectively be referenced as the “Parties”), through their
14 respective counsel of record herein, hereby agree and stipulate to the following.

- 15 1. In light of Defendants’ representation that the noticed and scheduled
16 trustee sale of real property located at 1956 Clover Drive, Willits,
17 California (“Property”) has been postponed to December 9, 2011,
18 Plaintiffs, through their undersigned counsel, hereby WITHDRAW their
19 current *ex parte* application for a temporary restraining order.
- 20 2. The Parties, through their respective counsel, stipulate and agree that
21 Plaintiffs’ motion for a temporary restraining order, and an order to show
22 cause re. issuance of a preliminary injunction, or in the alternative,
23 motion for preliminary injunction, shall be scheduled for hearing,
24 pending this Court’s availability, on November 22, 2011 at 10:00 a.m. in
25 Courtroom 205A (2nd Floor) of the above entitled Court¹.

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27
28 ¹ As a matter of convenience to the Court and the parties, Defendant Saxon Mortgage Services, Inc. has its Motion to Dismiss Plaintiffs’ Second Amended Complaint scheduled for the same date, time, and location.

1 DATED: October 10, 2011

HOUSER & ALLISON
A Professional Corporation

3
4 /s/ Jason K. Boss

Eric D. Houser

Jason K. Boss

Attorneys for Defendants OCWEN
LOAN SERVICING, LLC, DEUTSCHE
BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR IXIS
REAL ESTATE CAPITAL TRUST
2005-HE3 MORTGAGE PASS
THROUGH CERTIFICATES, SERIES
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REAL ESTATE CAPITAL TRUST
2005-HE3 MORTGAGE PASS
THROUGH CERTIFICATES, SERIES
2005-HE3 (erroneously sued as IXIS
REAL ESTATE CAPITAL TRUST
2004-HE3), MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., AND WESTERN
PROGRESSIVE, LLC

19 **ORDER**

20 Based on the foregoing stipulation of the parties hereto, the above listed
21 dates are hereby accepted by this Court.

22
23 Plaintiffs' *ex parte* application is hereby ordered WITHDRAWN.

24 Plaintiffs' motion for a temporary restraining order and an order to show
25 cause hearing regarding issuance of a preliminary injunction, or in the alternative,
26 motion for preliminary injunction shall be heard on November 22, 2011 at 10:00
27 a.m. in Courtroom 205A of the above entitled Court.
28

1 Defendants shall have until October 21, 2011 in which to file and serve
2 responsive pleadings and/or a Motion to Dismiss Plaintiffs' Second Amended
3 Complaint. If a Motion to Dismiss is filed by Defendants, it shall be heard on
4 November 22, 2011 at 10:00 a.m. in Courtroom 205A of the above entitled Court.
5 Any opposition to Defendants' Motion to Dismiss shall be filed and served by
6 Plaintiffs by no later than November 1, 2011, and any Reply papers shall be filed
7 and served by no later than November 9, 2011.
8
9

10 **IT IS HEREBY ORDERED AND ADJUDGED.**

11
12 **DATE:** October 11, 2011



13 **HONORABLE NADOR J. VADAS,**
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF**
16 **CALIFORNIA, JUDGE**

