

United States District Court  
For the Northern District of California

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

TONY A LUCERO,  
Plaintiff,

No. C 09-2879 CRB

**ORDER**

v.

AMERICAN HOME MORTGAGE, et al.,  
Defendants.

Having considered Plaintiff’s Reply to Defendants’ Supplemental Declaration, the Court affirms its July 14, 2010 Order Conditionally Granting Plaintiff’s Request for Relief From Judgment. In his First Amended Complaint, Plaintiff alleges several times that Defendants unlawfully foreclosed on the property at issue in this case. *See, e.g.*, FAC ¶ 75 (“Defendants . . . proceeded with foreclosure in violation of TILA requirements.”); ¶ 77 (“Defendants also violated California Civil Codes governing non-judicial foreclosure.”); ¶ 80 (“As a result of the Defendants’ [unlawful conduct], Plaintiff has suffered damages, including the loss of his real property to foreclosure.”). Plaintiff’s second cause of action is, in fact, a claim for Wrongful Foreclosure. FAC at 15. Given these allegations, it is reasonable for Defendants to postpone the further sale of the property at issue until this case is resolved. Accordingly, the Court affirms its finding that there is a danger that Defendants will suffer prejudice if Plaintiff’s Rule 60 motion is granted. The Court’s previous Order is

1 therefore affirmed in all respects.

2 **IT IS SO ORDERED.**

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5 Dated: July 22, 2010

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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE