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

RODOLFO VELASQUEZ,

No. C 10-01641 SI

Plaintiff,

**ORDER SETTING BRIEFING
SCHEDULE ON MOTION FOR A
TEMPORARY RESTRAINING ORDER**

v.

CHASE HOME FINANCE LLC, FANNIE
MAE,

Defendants.

On October 20, 2010 plaintiff filed a motion for a temporary restraining order, seeking to stop the November 1, 2010 foreclosure of his property at 426 Idora Avenue, Vallejo, California 94591. Plaintiff argues that he is entitled to the TRO because: (1) he believes there are legal deficiencies with respect to the deed of trust, notice of default and/or notice of substitution of trustee; (2) defendant should not be able to foreclose pending the resolution of plaintiff's request for a loan modification and/or principal reduction under the Federal HAMP program; and (3) the Court has not yet ruled on the adequacy of his Second Amended Complaint.

The Court sets the following briefing schedule:

On or before October 26, 2010, defendants shall file a response to the TRO motion specifically addressing the following:

1. Whether a foreclosure sale of plaintiff's property in Vallejo is currently scheduled, and if so, on what date;
2. The status of Chase Home Finance's consideration of plaintiff's applications for a loan modification and/or principal reduction under HAMP;
3. Whether Chase Home Finance LLC and/or Chase Home Mortgage Corporation is allowed to proceed with the foreclosure of plaintiff's property if plaintiff's applications

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4. for a loan modification and/or principal reduction under HAMP are still pending; How Chase Home Finance LLC became the “present BENEFICIARY” under the Deed of Trust (Instrument No. 200300194211) and whether as the “present BENEFICIARY” it is entitled to authorize and/or pursue a foreclosure on plaintiff’s property;
5. Whether the Notice of Default issued on February 10, 2009 by NDEx West LLC is proper given that the Notice of Substitution of Trustee, replacing Chicago Title Company with NDEx West LLC as trustee was not filed until March 11, 2009; and
6. Whether plaintiff is entitled to a TRO based on the remaining allegations in his Second Amended Complaint.

Plaintiff shall not file a reply and the matter will be submitted on the papers for the Court’s determination.

IT IS SO ORDERED.

Dated: October 20, 2010



SUSAN ILLSTON
United States District Judge