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

HARVEY OTTOVICH, MARK  
OTTOVICH, and the HARVEY G.  
OTTOVICH REVOCABLE LIVING  
TRUST,

No. C 10-02842 WHA

Plaintiffs,

v.

CHASE HOME FINANCE, LLC,  
WASHINGTON MUTUAL INC., and JP  
MORGAN CHASE BANK NA,

**ORDER REGARDING SHOW CAUSE  
HEARING AND TRIAL ON SEPTEMBER 6**

Defendants.

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Apparently Attorney Mar has sent an e-mail today to defense counsel stating: "Dear Mr. Bacon: Attorney Mar will be unable to attend the trial scheduled for 9/6/11 because of an eye infection. Craig Mar. I will be out indefinitely."

Attorney Mar did not communicate with the Court directly. Attorney Mar and plaintiffs are under an obligation to appear at 7:30 a.m., on Tuesday, September 6, 2011, as stated in prior orders. Attorney Mar and plaintiffs have not been excused from this appearance.

If Attorney Mar or plaintiffs desire to be excused from the trial and show cause hearing they must file a proper motion with the Court. Sending an e-mail to defense counsel is not sufficient. A proper motion to the Court would require sworn declarations. Given the strange

1 conduct of plaintiffs' counsel in this case already, the Court is unwilling to accept the second-  
2 hand unsworn e-mail as an excuse for non-appearance.

3 Moreover, even if Attorney Mar has an eye infection today (Friday), that does not mean  
4 he would have an eye infection four days later on the day of trial and the show cause hearing.  
5 Even if he had an eye infection on Tuesday it might not be so severe as to prevent him from  
6 performing his professional obligations to his clients. A failure to appear on Tuesday on the  
7 present record will risk terminating sanctions or other appropriate sanctions.

8 All parties and counsel should be present and prepared to proceed on Tuesday,  
9 September 6, at 7:30 a.m.

10 **IT IS SO ORDERED.**

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12 Dated: September 2, 2011.



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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE