United States District Court
For the Northern District of California

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E-Filed 07/30/2010

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7   IN THE UNITED STATES DISTRICT COURT

8   FOR THE NORTHERN DISTRICT OF CALIFORNIA

9   SAN FRANCISCO DIVISION

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11   MITCHELL E. BOUYER, et al.,   No. C 10-3351 RS

12   Plaintiffs,   **DENIAL OF REQUEST FOR
                                          TEMPORARY RESTRAINING**
13   v.   **ORDER**

14   INDYMAC BANK, et al.,

15

16   Defendants.
      _____/

17   Plaintiffs Mitchell and Martha Bouyer filed their Complaint on July 30, 2010 alleging,

18   among others, violations of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq* ("TILA") and its

19   implementing regulations, 12 C.F.R. § 226 *et seq.* ("Regulations Z"). Plaintiffs have filed a

20   document requesting a temporary restraining order ("TRO") enjoining defendants from conducting a

21   trustee's sale of plaintiff's property, which the Bouyers represent is scheduled to take place in less

22   than two hours on July 30, 2010 at 12:30 p.m. The plaintiffs' have certified that the application was

23   either mailed or faxed to representatives of defendants HSBC Bank, Indymac Federal Bank, and

24   MERS on July 30, 2010.

25   Although they advance eight claims for relief, the Bouyers do not include a factual section.

26   Accordingly, while it is obvious from the papers that the Bouyers entered into some sort of loan

27   with the named defendants, they have not in any way described the loan's terms, the date on which

28   it was entered or what, if any, of defendants' actions gave rise to the TILA rescission right alleged.

                                                             No. C 10-00805 RS
                              ORDER DENYING REQUEST FOR TEMPORARY RESTRAINING ORDER

1   Accordingly, plaintiffs' papers provide an inadequate factual or legal basis to grant the relief

2 requested and no explanation for why relief could not have been sought at an earlier time when

3 more meaningful review would have been possible. Although a foreclosure proceeding certainly

4 presents the possibility for irreparable harm, plaintiffs have provided virtually no facts from which

5 even a serious question going to the merits could be ascertained. Based on these papers and this

6 record, the request for a Temporary Restraining Order must be denied.

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9   IT IS SO ORDERED.

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11 Date: 07/30/2010   _____

12   RICHARD SEEBORG
      UNITED STATES DISTRICT JUDGE

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28   No. C 10-03351 RS
      ORDER DENYING REQUEST FOR TEMPORARY RESTRAINING ORDER