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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

PAULETTE SCHAEFFER,

No. C 12-2031 RS

Plaintiff,

v.

**ORDER DENYING MOTION FOR  
PRELIMINARY INJUNCTION  
WITHOUT PREJUDICE AND  
CONTINUING HEARING ON  
MOTION TO DISMISS**

WACHOVIA MORTGAGE  
CORPORATION, et al.,

Defendants.

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On May 23, 2012, Paulette Schaeffer sought a temporary restraining order to enjoin a non-judicial foreclosure sale scheduled for May 29, 2012, and preliminary injunction that would preclude defendants from proceeding with the foreclosure pending trial in this action. The Court gave defendants the option of either responding to the TRO application, or voluntarily continuing the foreclosure sale for 30 days to permit the matter to be resolved in the context of the application for a preliminary injunction. Defendants elected the latter. The parties subsequently stipulated to extending the briefing schedule on the preliminary injunction application, and defendants agreed the foreclosure sale would not go forward prior to July 13, 2012, a commitment they shall honor, notwithstanding this denial of a preliminary injunction.

Schaeffer's claims in this action arise in part or in whole from her assertion that defendants have failed to comply with the terms of a settlement reached in In Re Wachovia Corporation "Pick-A-Pay" Mortgage Marketing and Sales Practices Litigation, Case No. 5:09-md-2015 JF. ("In Re Wachovia"). Pursuant to Civil Local Rule 3-12(b), the parties were thereby obligated to file an

1 administrative motion in that action to consider whether this action should be related to it. In the  
2 ordinary course of events, where the parties failed to file such a motion, a sua sponte referral for  
3 such a determination would issue pursuant to Rule 3-12(c). In this instance, because the Court was  
4 aware that the judge presiding over In Re Wachovia has been seconded to Washington, D.C. as the  
5 Director of the Federal Judicial Center and the case was closed, no referral was made at the time of  
6 the prior order in this action.

7       Upon further review, it has been determined that the judge presiding over In Re Wachovia is  
8 continuing to entertain motions relating to enforcement of the settlement in that action. He has,  
9 however, declined to relate other cases implicating the settlement to the action pending before him,  
10 instead inviting parties to proceed by appropriate motion. *See, e.g.* Order entered February 17,  
11 2012, In Re Wachovia, Dkt. No. 317.

12       Under these circumstances, Schaffer's application for a preliminary injunction will be  
13 denied, without prejudice to her seeking relief in In Re Wachovia, or to her renewing the application  
14 in this proceeding if it becomes appropriate to do so in light of any order that may issue in that case.  
15 The hearing on defendant's motion to dismiss the complaint herein is continued to August 23, 2012  
16 at 1:30 p.m. No later than August 9, 2012, Schaffer shall file a supplemental brief, not to exceed 10  
17 pages, addressing her rights, if any, to pursue this action as an independent proceeding, and any  
18 necessity for doing so. Defendants may file a response, also not to exceed 10 pages, within one  
19 week thereafter.

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21 IT IS SO ORDERED.

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24 Dated: 6/26/12

25   
26 RICHARD SEEBORG  
27 UNITED STATES DISTRICT JUDGE  
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