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

TRACEY HOBBS AND RODNEY HOBBS,

No. C 12-4060 RS

Plaintiffs,

v.

WELLS FARGO BANK N.A., et al.,

Defendants.

**ORDER VACATING PRIOR ORDER
AND GRANTING APPLICATION
FOR TEMPORARY RESTRAINING
ORDER, AND SETTING HEARING
ON PRELIMINARY INJUNCTION**

Earlier this date, an order issued denying plaintiffs' application for a temporary restraining order to preclude a foreclosure sale of the subject property from going forward as currently scheduled on December 13, 2012. That order was based on an incorrect understanding that plaintiffs had failed to respond to a prior order to explain their apparent delay in seeking relief. Plaintiffs in fact filed a timely and adequate declaration indicating that they had not previously moved for injunctive relief because they believed extrajudicial efforts to resolve the matter were progressing. Accordingly, the order denying the application for temporary restraining order (Dkt. No. 51) is vacated.

In circumstances not meaningfully distinguishable from those shown on the present record here, injunctive relief has previously been granted to prevent foreclosure sales from going forward during the pendency of actions. *See, e.g., Osorio v. Wells Fargo Bank*, 2012 WL 1909335

1 (N.D.Cal. 2012). Defendant Wells Fargo urges that *Osorio* was wrongly decided, and offers
2 additional authority and analysis to support its contention that California Civil Code §2923.5 is
3 preempted by federal regulations issued under the Home Owners Loan Act (“HOLA”).

4 While Wells Fargo has offered a more nuanced argument than that addressed in *Osorio*,
5 plaintiffs’ showing is sufficient to warrant issuance of a temporary restraining order under all the
6 circumstances. Accordingly, defendants are hereby enjoined from proceeding with a trustee’s sale
7 of the subject property pending a decision on the possible issuance of a preliminary injunction. A
8 hearing on a preliminary injunction will be held on December 20, 2012, at 1:30 p.m., in Courtroom
9 3, 17th Floor, United States Courthouse, 450 Golden Gate Avenue, San Francisco, California.
10 Plaintiffs may, but are not required to, file any further papers in support of a preliminary injunction
11 no later than December 10, 2012, and defendants may file a response thereto no later than December
12 17, 2012.

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15 IT IS SO ORDERED.

16 Dated: 12/4/12



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE

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