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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAVIER LABRA, et al.,

Plaintiffs,

No. C 09-2537 PJH

v.

**ORDER DENYING APPLICATION
FOR TEMPORARY RESTRAINING
ORDER**

CAL-WESTERN RECONVEYENCE
CORPORATION, et al.,

Defendants.

_____ /

Plaintiffs' application for a temporary restraining order came on for hearing before this court on October 23, 2009. Plaintiffs appeared by John Harding (for their counsel Harold Reiland), and defendant Aurora Loan Services LLC appeared by its counsel Robert Shaw. Having read the parties' papers, and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby DENIES the application as follows and for the reasons stated at the hearing.

Requests for temporary restraining orders are governed by the same general standards that govern the issuance of a preliminary injunction. See New Motor Vehicle Bd. v. Orrin W. Fox Co., 434 U.S. 1345, 1347 n.2 (1977); Stuhlberg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc., 240 F.3d 832, 839 n. 7 (9th Cir. 2001).

A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest. Winter v. Natural Resources Defense Council, Inc., 129 S.Ct. 365, 374 (2008).

The court finds that plaintiffs' application must be denied because they have not met their burden of showing likelihood of success on the merits. In particular, they have not

United States District Court
For the Northern District of California

1 established that defendant Cal-Western Reconveyance Corporation was not a proper
2 trustee and had no power of sale under the deed of trust.

3 If plaintiffs wish to go forward with a motion for preliminary injunction, the court will
4 hear that motion on November 18, 2009, at the same time as defendant Aurora's pending
5 motion to dismiss. The motion for preliminary injunction shall be filed no later than October
6 30, 2009. The opposition shall be filed no later than November 6, 2009, and the reply shall
7 be filed no later than November 10, 2009. The opposition to and reply in support of the
8 motion to dismiss shall be filed in accordance with Civil Local Rule 7-3.

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10 **IT IS SO ORDERED.**

11 Dated: October 23, 2009

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PHYLLIS J. HAMILTON
United States District Judge

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