

1 MARSHALL C. WALLACE (BAR NO. 127103)  
 KEITH D. YANDELL (BAR NO. 233146)  
 2 ALLEN MATKINS LECK GAMBLE  
 MALLORY & NATSIS LLP  
 3 Three Embarcadero Center, 12th Floor  
 San Francisco, CA 94111-4074  
 4 Phone: (415) 837-1515  
 Fax: (415) 837-1516  
 5 E-Mail: mwallace@allenmatkins.com  
 kyandell@allenmatkins.com

6  
 7 JOSI KENNON SWONETZ (BAR NO. 260575)  
 501 West Broadway, 15th Floor  
 San Diego, California 92101-3541  
 8 Phone: (619) 233-1155  
 Fax: (619) 233-1158  
 9 E-Mail: jswonetz@allenmatkins.com

10 Attorneys for Defendant  
 WELLS FARGO BANK, N.A., successor by merger with  
 11 Wells Fargo Bank Southwest, N.A. f/k/a/ Wachovia  
 Mortgage, FSB f/k/a World Savings Bank, FSB

12  
 13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA**

16 ROBERT TUCK, PATRICIA BERKOWITZ,  
 17 Plaintiffs,  
 18 vs.  
 19 WELLS FARGO HOME MORTGAGE; NDEX  
 WEST, LLC; DOES 1 through 50, inclusive,  
 20 Defendants.  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

Case No. 4:12-CV-04002-DMR  
 [Assigned for all purpose to Magistrate Judge  
 Donna M. Ryu]  
**STIPULATION TO CONTINUE HEARING  
 ON (1) WELLS FARGO BANK, N.A.'S  
 MOTION TO DISMISS THE COMPLAINT  
 AND (2) PLAINTIFFS' ORDER TO SHOW  
 CAUSE WHY A PRELIMINARY  
 INJUNCTION SHOULD NOT ISSUE AND  
 [PROPOSED] ORDER**  
 Date: October 11, 2012  
 Time: 11:00 a.m.  
 Dept.: 4, 3rd Floor

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**STIPULATION**

This stipulation is entered into by and between Plaintiffs Robert Tuck and Patricia Berkowitz ("Plaintiffs") and Defendant Wells Fargo Bank, N.A. ("Wells Fargo"), through their respective counsel of record, with regard to the following:

WHEREAS, the hearing on Wells Fargo's Motion to Dismiss the Complaint is currently scheduled for October 11, 2012 at 11:00 a.m.;

WHEREAS, the hearing on Plaintiffs' Order to Show Cause Why a Preliminary Injunction Should Not Issue is currently scheduled for October 11, 2012 at 11:00 a.m.;

WHEREAS, Plaintiffs and Wells Fargo are attempting to reach a settlement and wish to maintain the status quo during the settlement negotiations;

Plaintiffs and Wells Fargo, through their respective counsel, hereby stipulate as follows:

1. The hearing on Wells Fargo's Motion to Dismiss the Complaint currently scheduled for October 11, 2012 at 11:00 a.m. be continued 45 (forty five) days, or such other longer period as is convenient for the Court.

2. The hearing on Plaintiffs' Order to Show Cause Why a Preliminary Injunction Should Not Issue currently scheduled for October 11, 2012 at 11:00 a.m. be continued 45 (forty five) days, or such other longer period as is convenient for the Court.

**AGREED TO AND ACCEPTED BY:**

Dated: October 9, 2012

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

By:           /s/ Josi Kennon Swonetz            
JOSI KENNON SWONETZ  
Attorneys for Defendant  
WELLS FARGO BANK, N.A., successor by  
merger with Wells Fargo Bank Southwest,  
N.A. f/k/a/ Wachovia Mortgage, FSB f/k/a  
World Savings Bank, FSB

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: October 9, 2012

CAMACHO & ASSOCIATES

By: 

LUIS W. CAMACHO  
Attorneys for Plaintiffs  
Robert Tuck and Patricia Berkowitz

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

~~PROPOSED~~ ORDER

For good cause appearing, it is so ordered as follows:

1. The hearing on Wells Fargo's Motion to Dismiss the Complaint currently scheduled for October 11, 2012 at 11:00 a.m. is rescheduled for November 29, 2012 at 11:00 a.m.

2. The hearing on Plaintiffs' Order to Show Cause Why a Preliminary Injunction Should Not Issue currently scheduled for October 11, 2012 at 11:00 a.m. is rescheduled for November 29, 2012 at 11:00 a.m.

IT IS SO ORDERED.

Dated: Oct. 9, 2012

Hon. Donna M. Ryu  
Magistrate Judge, United States District Court

