

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRANDON LEE GUSTIN,
Plaintiff,
v.
PHH MORTGAGE CORPORATION,
Defendant.

Case No. [24-cv-02917-HSG](#)

**ORDER DIRECTING DEFENDANT TO
RESPOND TO EX PARTE
APPLICATION**

Re: Dkt. No. 21

Before the Court is Plaintiff’s amended ex parte application, Dkt. No. 20. The Court **DIRECTS** Defendant to file any opposition by 5:00 p.m. on Tuesday, October 29, 2024.

Plaintiff Brandon Gustin filed his complaint against Defendant PHH Mortgage Corporation in May 2024. *See* Dkt. No. 1. Defendant filed a motion to dismiss. *See* Dkt. No. 4. After Plaintiff failed to timely oppose or otherwise respond to the motion, the Court ordered Plaintiff to show cause by October 23, 2024, why the case should not be dismissed for Plaintiff’s failure to prosecute, given Plaintiff’s failure to file a response to the motion by the deadline. *See* Dkt. No 17.

On October 23, Plaintiff responded to the order to show cause and filed an ex parte application seeking to temporarily enjoin the foreclosure sale of the property located at 11 Benita Way, Martinez, California, 94533. *See* Dkt. Nos. 18, 19. The requested TRO would enjoin Defendant from foreclosing on the property as scheduled on Thursday, October 31, 2024. *See* Dkt. No. 18. Plaintiff then filed an amended ex parte application. *See* Dkt. No. 20. It is unclear why Plaintiff waited until one week before the foreclosure to file this application, as Plaintiff acknowledges that the writ of possession was posted on June 25, 2024. *See id.* at 4.

//

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

The Court thus **DIRECTS** Defendant to file any opposition to Plaintiff's amended ex parte application, Dkt. No. 20, by 5:00 p.m. on Tuesday, October 29, 2024, at which time the motion will be submitted on the papers unless otherwise ordered.

IT IS SO ORDERED.

Dated: October 25, 2024



HAYWOOD S. GILLIAM, JR.
United States District Judge