

E-Filed 4/29/2009

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8 **IN THE UNITED STATES DISTRICT COURT**

9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 **SAN JOSE DIVISION**

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12 CARLOS PACHECO, an individual,

13 Plaintiff,

14 vs.

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16 HOMECOMINGS FINANCIAL, LLC, a Delaware

17 Limited Liability Company; MORTGAGEIT, INC.,

18 a New York Corporation; and DOES 1-100,

19 Inclusive,

20 Defendants.

Case Number C 08-3002 JF (HRL)

ORDER¹ (1) GRANTING *EX PARTE*

APPLICATION FOR EXTENSION OF

TIME TO SERVE THIRD PARTY

DEFENDANT AND (2) DENYING

WITHOUT PREJUDICE *EX PARTE*

APPLICATION TO ALLOW

SERVICE BY PUBLICATION

[re: docket no. 54]

20 MORTGAGEIT, INC., a New York Corporation,

21 Third Party Plaintiff,

22 vs.

23 RELC, INC. dba REAL ESTATE LOAN

24 CENTER, a California Corporation; NANCY

25 LINDNER, an individual; and PEDRO REYES, an

26 individual,

27 Third Party Defendants.

28 ¹ This disposition is not designated for publication in the official reports.

1 Defendant and third party Plaintiff MortgageIT, Inc. ("MortgageIT") requests an order
2 allowing for service of the summons and third party complaint on third party Defendant Nancy
3 Lindner ("Lindner") by publication pursuant to Fed. R. Civ. Proc. 4(e)(1) and Cal. Civ. Proc.
4 Code § 415.50. Alternatively, MortgageIT requests an additional ninety days to serve Lindner.

5 The Court has considered the *ex parte* application and the supporting declaration and
6 exhibits. Good cause therefor appearing, IT IS HEREBY ORDERED that MortgageIT's request
7 for an extension of time to serve Lindner is GRANTED. Pursuant to Fed. R. Civ. P. 6(b)(1)(A),
8 MortgageIT shall have an additional ninety (90) days to serve the summons and third party
9 complaint on Lindner. The request to effect service by publication is DENIED without prejudice
10 to MortgageIT renewing the application after ninety days if it fails to locate Lindner.

11 IT IS SO ORDERED.

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14 DATED: April 29, 2009

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17 JEREMY FOGEL
United States District Judge

1 This Order has been served upon the following persons:

2 Carlos Pacheco dan@jmglawoffices.com

3 Daniel Joseph Mulligan dan@jmglawoffices.com, lgabriel@jmglawoffices.com

4 Karen A. Braje kbraje@reedsmith.com

5 Kristine Huajean Chen kchen@reedsmith.com, ccadon@reedsmith.com

6 Lorenzo Emilio Gasparetti lgasparetti@reedsmith.com

7 Pamela Dawn Simmons pamelaw@pamelaw.com

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