

United States District Court
For the Northern District of California

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

E-FILED on 05/10/2009

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

ALLEN GAMBLE and VERONICA
GAMBLE

Plaintiffs,

v.

GMAC MORTGAGE CORPORATION and
OCWEN LOAN SERVICING, LLC, And All
Persons Unknown Claiming Any Legal Or
Equitable Right, Title, Estate, Lien Or Interest
In The Property Described In The Complaint
Adverse To Plaintiff's Title, Or Any Cloud
Upon Plaintiff's Title Thereto, Does 1-100,

Defendants.

No. C-08-05532 RMW

ORDER GRANTING DEFENDANTS'
MOTIONS TO DISMISS

Re Docket Nos. 19, 21, 23

Defendants GMAC Mortgage Corporation and Ocwen Loan Servicing, LLC's motions to dismiss are granted. Plaintiffs shall have 30 days leave to amend. It appears that plaintiffs are alleging breach of a first or second forbearance agreement. However, the pleading as it now stands is insufficient to set forth the basis of plaintiffs' claims. Plaintiffs must allege the terms of the forbearance agreement, plaintiffs' compliance with those terms, and defendants' breach of some term of the forbearance agreement. The court recognizes that plaintiffs apparently have alternative theories under which they seek recovery. However, plaintiffs must plead facts demonstrating how defendants are liable under the alternative theories.

DATED: 05/10/2009

Ronald M Whyte
RONALD M. WHYTE
United States District Judge

