

United States District Court
For the Northern District of California

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E-FILED on 4/14/09

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

KIMBERLY A. BROCKINGTON, also
known as KIMBERLY A. SCHATZ, and
LALLY BROCKINGTON,

Plaintiffs,

v.

J.P. MORGAN CHASE BANK, N.A., a
National Banking Association, NDEX
WEST, LLC, a Texas Limited Liability
Company, and DOES 1 to 20, inclusive,

Defendants.

No. C-08-05795 RMW HRL

ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS WITH LEAVE TO
AMEND, DENYING DEFENDANT'S
REQUESTS FOR JUDICIAL NOTICE,
DENYING PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION; AND
SETTING FURTHER SCHEDULE

[Re Docket Nos. 10, 11, 14 and 16]

On March 20, 2009, the court heard defendant J.P. Morgan Chase Bank N.A.'s motion to
dismiss and plaintiffs' motion for preliminary injunction. Having considered the papers submitted
by the parties and the arguments of counsel, and for good cause appearing and for the reasons
stated at the hearing, IT IS HEREBY ORDERED as follows:


1. Defendant's Motion to Dismiss is GRANTED, with leave to amend. Defendant's
Requests for Judicial Notice are DENIED.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS WITH LEAVE TO AMEND, DENYING DEFENDANT'S REQUESTS
FOR JUDICIAL NOTICE, DENYING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION; AND SETTING FURTHER
SCHEDULE—No. C-08-05795 RMW HRL
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2. Plaintiffs' Motion for Preliminary Injunction is DENIED. Given the dismissal of the complaint, plaintiffs have not carried their burden of establishing a likelihood of success on the merits sufficient to support an injunction.
3. Defendant shall produce its loan file corresponding to the transaction underlying this dispute within 15 days.
4. Plaintiffs shall have twenty days from production of defendant's loan file in which to file an amended complaint.
5. Defendant's anticipated motion to dismiss the amended complaint, if filed, shall be noticed for hearing on June 26, 2009 at 9:00 a.m. This matter shall be set for an initial Case Management Conference on June 26, 2009 at 10:30 a.m.

DATED: 4/6/09



RONALD M. WHYTE
United States District Judge

