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4		<b>E-FILED on</b> <u>4/14/09</u>	
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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	KIMBERLY A. BROCKINGTON, also known as KIMBERLY A. SCHATZ, and	No. C-08-05795 RMW HRL	
13	3 LALLY BROCKINGTON,		
14	Plaintiffs,	ORDER GRANTING DEFENDANT'S MOTION TO DISMISS WITH LEAVE TO AMEND, DENYING DEFENDANT'S	
15	v.		
16	J.P. MORGAN CHASE BANK, N.A., a National Banking Association, NDEX	REQUESTS FOR JUDICIAL NOTICE, DENYING PLAINTIFFS' MOTION FOR	
17	WEST, LLC, a Texas Limited Liability Company, and DOES 1 to 20, inclusive,	PRELIMINARY INJUNCTION; AND SETTING FURTHER SCHEDULE	
18	Defendants.	[Re Docket Nos. 10, 11, 14 and 16]	
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22	On March 20, 2009, the court heard defendant J.P. Morgan Chase Bank N.A.'s motion to		
23	dismiss and plaintiffs' motion for preliminary injunction. Having considered the papers submitted		
24	by the parties and the arguments of counsel, and for good cause appearing and for the reasons		
25	stated at the hearing, IT IS HEREBY ORDERED as follows:		
26	1. Defendant's Motion to Dismiss is GRANTED, with leave to amend. Defendant's		
27	Requests for Judicial Notice are D	ENIED.	
28	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 TER		
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1	2.	Plaintiffs' Motion for Preliminary Injunction is DENIED. Given the dismissal of	
2		the complaint, plaintiffs have not carried their burden of establishing a likelihood of	
3		success on the merits sufficient to support an injunction.	
4	3.	Defendant shall produce its loan file corresponding to the transaction underlying	
5		this dispute within 15 days.	
6	4.	Plaintiffs shall have twenty days from production of defendant's loan file in which	
7		to file an amended complaint.	
8	5.	Defendant's anticipated motion to dismiss the amended complaint, if filed, shall be	
9		noticed for hearing on June 26, 2009 at 9:00 a.m. This matter shall be set for an	
10		initial Case Management Conference on June 26, 2009 at 10:30 a.m.	
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14		Realization	
15	DATED:	4/6/09 RONALD M. WHYTE	
16		United States District Judge	
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28	ORDER GRANTING DEFENDANT'S MOTION TO DISMISS WITH LEAVE TO AMEND, DENYING DEFENDANT'S REQUEST FOR JUDICIAL NOTICE, DENYING PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION; AND SETTING FURTHE		
	TER	No. C-08-05795 RMW HRL 2	

Notice of this document has been electronically sent to: 1 2 **Counsel for Plaintiffs:** 3 John Stuart Perkins johnsperkins@sbcglobal.net 4 **Counsel for Defendants:** 5 John M. Sorich jsorich@adornocom S. Christopher Yoo cyoo@adorno.com 6 7 Counsel are responsible for distributing copies of this document to co-counsel that have not 8 registered for e-filing under the court's CM/ECF program. 9 10 11 **Dated:** 4/14/09 TER **Chambers of Judge Whyte** 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 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 3 TER

United States District Court For the Northern District of California