

United States District Court  
For the Northern District of California

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E-filed on: 3/10/2009

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

CATHERINE G. MARTIN,  
Plaintiff,

v.

MURRAY ZOOTA, President and CEO of  
Fremont Investment & Loan;  
FREMONT HOME LOAN TRUST 2006-1;  
RICHARD KOVACEVICH, CEO of Wells  
Fargo Home Mortgage, Inc. dba America's  
Servicing Company;  
WELLS FARGO HOME MORTGAGE, INC,  
dba America's Servicing Company;  
SUSAN BRENNER, CEO, Deutsch Bank  
National Trust Company;  
DEUTSCH BANK NATIONAL TRUST  
COMPANY, as Trustee for Fremont Home  
Loan Trust 2006-1;  
MICHAEL BARRETT, President and CEO,  
NDEX West, LLC as Trustee;  
NDEX WEST, LLC, as Trustee;  
GAIL L. PELLERIN, Clerk for Santa Cruz  
County;  
GARY HAZELTON, Recorder for Santa Cruz  
County;  
STEVEN D ROBBINS, Sheriff/Coroner for  
Santa Cruz County;  
HENRY M. PAULSON, JR., Secretary of the  
Treasury, United States;  
MICHAEL B. MUKASY, U.S. Attorney  
General, as Alien Property Custodian,

And any all persons unknown, claiming any  
legal or equitable right, title, estate, lien or  
interest in the property described in the  
complaint adverse to plaintiffs title or any  
cloud on title,

Defendants.

No. C-09-00315 RMW

ORDER GRANTING MOTION TO DISMISS  
AND ORDER TO SHOW CAUSE

[Re Docket No. 5]

ORDER GRANTING MOTION TO DISMISS AND ORDER TO SHOW CAUSE  
No. C-09-00315 RMW  
TSF

**BACKGROUND**

1  
2 Plaintiff Catherine G. Martin appears to have lost her home in Santa Cruz, California to  
3 foreclosure following multiple efforts to renegotiate her mortgage and a bankruptcy proceeding.  
4 See Docket No. 1, Exhibit 1 (hereinafter "Compl.") ¶ 11. She filed suit in Santa Cruz County  
5 Superior Court on October 3, 2008, but has never served any defendant. Docket No. 1 ¶ 2. Three  
6 defendants discovered they had been sued and removed the case to this court on January 23, 2009.

7 Martin requests that the court void the original promissory note giving rise to the default.  
8 *Id.* ¶ 14a. She alleges that in negotiating the mortgage, the defendants engaged in fraud, and she  
9 further alleges that this pattern of fraud gives rise to a civil RICO claim. See *id.* ¶¶ 14b-f. The  
10 alleged "fraud" arises from Martin's theory that "the United States is and has been in bankruptcy  
11 since at least 1933," calling into question the value of the "federal reserve notes" she received in  
12 exchange for the promissory note to buy her home. *Id.* ¶¶ 16-19. The defendants purportedly  
13 engaged in fraud by failing to disclose the worthless status of the money they gave to Martin. See  
14 *id.*

15 Richard Kovacevich, Wells Fargo and Deutsche Bank move to dismiss all of the claims  
16 against them. Martin has failed to file an opposition to the motion, nor has she filed a statement of  
17 non-opposition. Having reviewed Martin's complaint, the court can divine no merit to her claims  
18 and grants the unopposed motion to dismiss without prejudice. Accordingly, the court vacates the  
19 hearing scheduled for March 13. Civil L.R. 7-1(b).

20 "*Sua sponte* 12(b)(6) dismissals are permitted, provided that a sufficient basis for the court's  
21 action is evident from the plaintiff's pleading." *Ledford v. Sullivan*, 105 F.3d 354, 356 (7th Cir.  
22 1997); *Wachtler v. County of Herkimer*, 35 F.3d 77, 82 (2d Cir. 1994) (suggesting that notice and an  
23 opportunity to be heard are required before a *sua sponte* dismissal). As discussed, Martin's  
24 complaint appears to lack any merit.

**ORDER TO SHOW CAUSE**

25  
26 The court therefore orders Martin to show cause, i.e., explain, why her complaint should not  
27 be dismissed as to all defendants for (a) failure to state a claim and (b) failure to timely serve the  
28 defendants. Martin must submit any written materials by March 20, 2009. She may appear for a

1 hearing on March 27, 2009 at 9:00 a.m. A failure by Martin to file papers showing cause as to why  
2 her case should not be dismissed will result in dismissal of her case.

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4 DATED: 3/9/2009

*Ronald M. Whyte*

RONALD M. WHYTE  
United States District Judge

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1 **Notice of this document has been electronically sent to:**

2 **Counsel for defendants:**

3 Sung-Min Christopher Yoo cyoo@adorno.com  
4 John M. Sorich jsorich@adorno.com

5 **Notice of this document has been mailed to:**

6 Catherine G. Martin  
7 435 Bellevue Street  
8 Santa Cruz, CA 95060

9 Counsel are responsible for distributing copies of this document to co-counsel that have not  
10 registered for e-filing under the court's CM/ECF program.

11 **Dated:** 3/10/2009 TSF  
12 **Chambers of Judge Whyte**

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