

United States District Court
For the Northern District of California

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E-FILED 10-21-2009

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JOSE R. CARNERO and MARTA C. CARNERO,

No. C09-04696 HRL

Plaintiffs,

ORDER RE PLAINTIFFS' REQUEST RE NOTICE OF LIS PENDENS

v.

[Re: Docket No. 3]

EMC MORTGAGE CORP (EMC), CHASE BANK, NATIONAL DEFAULT SERVICING CORPORATION (NDSC), CHICAGO TITLE COMPANY, REAL TIME RESOLUTIONS, INC., RANDY MIGUEL DOING BUSINESS AS WIRE FINANCIAL, DOES 1-100, inclusive,

Defendants.

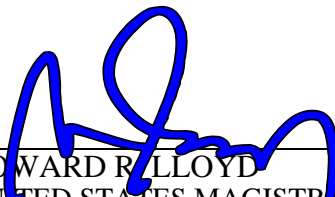
Pursuant to Cal. Code Civ. Proc. § 405.21, pro se plaintiffs Jose and Marta Carnero seek this court's approval of their Notice of Lis Pendens ("Notice"), a copy of which is appended to this order. The plaintiffs' complaint appears to potentially affect title to or the right to possession of the real property described in the proposed Notice. Therefore, the Notice is approved. However, the plaintiffs are advised that this approval is not to be construed as a suggestion by this court that any of the claims made in the complaint necessarily have merit, and defendants may upon a proper showing ask for an order expunging the Lis Pendens and/or dismissing the complaint. Likewise, this court intends that the approval applies only with respect to the action pending before it, and not to plaintiffs' reported California state court

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action apparently involving the same real property.

SO ORDERED.

Dated: October 21, 2009



HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

United States District Court
For the Northern District of California

1 A copy of this order mailed to:

2 Jose and Marta Carnero
3 1558 Minnesota Avenue 1 / 2
4 San Jose, CA 95125-4445

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RECEIVED

Honorable Judge Howard R. Lloyd

Jose R. & Marta C. Carnero - Pro se
1558 Minnesota Ave. 1/2
San Jose, CA 95125
Telephone: (408)269-2954

OCT 14 2009
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF
CALIFORNIA
SAN JOSE CIVIL DIVISION

CHL

) Case No.: C09 04696 HRL
Jose R. Carnero & Marta C.)
Carnero,)
Plaintiff,) REQUEST A SIGNED ORDER FROM
Vs.) HONORABLE JUDGE HOWARD R. LLOYD
EMC Mortgage Corp (EMC), Chase) REGARDING NOTICE OF LIS
Bank, National Default) PENDENS.
Servicing Corporation (NDSC),)
Chicago Title Company, Real)
Time Resolutions, INC., Randy)
Miguel doing business as Wire)
Financial, DOES 1-100)
inclusive,)
Defendants.)

NOTICE OF LIS PENDENS

TO THE ABOVE STYLED DEFENDANTS AND ALL OTHER WHOM IT MAY
CONCERN:

YOU ARE HEREBY NOTIFIED of the institution of this
action by the Plaintiff against you seeking to foreclose a

Case No.: C09 04696 HRL

mortgage recorded on 06/29/2007 as Instrument No. 19488813 of the office of the Recorder on the following property of Santa Clara County, California:

1558 Minnesota Ave. San Jose, California. See appendix A, for a legal description.

NOTICE IS HEREBY GIVEN that an action has been instituted and is now pending in the Superior Court of the USA District Court Northern District of California Case Number C0904696 and in the State of California Case Number 19CV154682 against the above-named Defendant.

Honorable Judge, please approve this notice as soon as possible because our primary house has a recorded trustee sale schedule for this October 30th 2009. EMC, CHASE, and NDSC have ignored the complaint filed against them in Federal Court. However the same case has been already filed in State Court.

Jose R. Carnero 10-14-09
Jose R. Carnero

Marta C. Carnero 10-14-09
Marta C. Carnero

Jose R. & Marta C. Carnero - Pro Se
1558 Minnesota Ave. 1/2
San Jose, CA 95125
Telephone: (408)269-2954

Case No.: C09 04696 HRL

ORDER OF COURT

File Stamp

Place in File - No Action Required

Scheduled Hearing

Order(s) as Follows

Judicial Officer - HOWARD R. LLOYD

Date

The Plaintiffs have enclosed a self-addressed stamp envelope for the order to be sent to Jose R. Carnero and Marta C. Carnero at 1558 Minnesota Ave. 1/2 San Jose CA. 95125-4445

Case No.: C09 04696 HRL

Carneros vs. EMC/Chase

CERTIFICATION OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the above and foregoing had been furnished by U.S. Certified Mail:

1. 7008 3230 0002 9239 5298. EMC Mortgage Corporation, P.O. Box 293150, Lewisville, TX 75029-3150, the ____ day of _____, 2009.
2. 7008 3230 0002 9239 5304. Chase Bank, Community Outreach Services, 3415 Vision Drive OH4-7376, Columbus, OH 43219, the ____ day of _____, 2009.
3. 7008 3230 0002 9239 5311. National Default Servicing Corporation, 7720 N. 16th Street, Suite 300, Phoenix, Arizona 85020, the ____ day of _____, 2009.
4. 7008 3230 0002 9239 5281. Chicago Title, 26 South Hillview Avenue, Milpitas, CA 95035, the ____ day of _____, 2009.
5. 7008 3230 0002 9239 5328. Real Time Resolutions, Inc 1750 Regal Row, Suite 120, Dallas, TX 75235-2287, the ____ day of _____, 2009.
6. 7008 3230 0002 9239 5274. Randy Miguel, 4354 Town Center BLVD. 114-288, El Dorado Hills, CA 95762, the ____ day of _____, 2009.

Jose R. Carnero

Date

Marta C. Carnero

Date

Case No.: C09 04696 HRL

Exhibit A.

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, described as follows:

BEGINNING at a point in the center line of Minnesota Avenue (formerly Isabel Drive), 50 feet wide, distant thereon 88° 10' East 422.70 feet from the point of intersection of the said center line of Minnesota Avenue (formerly Isabel Drive), with the center line of Meridian Avenue; thence along the center line of Minnesota Avenue (formerly Isabel Drive), North 88° 10' East 45 feet; thence leaving said line and running parallel with the center line of Meridian Avenue, South 181 feet; thence parallel with the center line of Minnesota Avenue (formerly Isabel Drive) South 88° 0' West 45 feet; thence North 181 feet to the point of beginning, and being a part of the Los Coches Rancho.

EXCEPTING THEREFROM so much thereof as lies within the bounds of Minnesota Avenue (formerly Isabel Drive), as described in the Deed from C.D. Geer, et al, to the County of Santa Clara, a body politic and corporate and a political subdivision of the State of California, dated April 17, 1959, and recorded May 15, 1959 in Book 933, Page 136, Official Records.

Commonly known as
APN:

1558 - 1558 1/2 Minnesota Avenue
429-50-032