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E-Filed 10/27/2009

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

JOSE R. CARNERO and MARTHA C. CARNERO,

Plaintiffs,

v.

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.

Case Number C 09-4696 JF (HRL)

ORDER¹ DENYING *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER

Re: Docket No. 5

I. BACKGROUND

Plaintiffs Jose and Martha Carnero (collectively, "Plaintiffs"), proceeding *pro se*, allege that Defendants EMC Mortgage Corp. (EMC), Chase Bank, National Default Servicing Corp. (NDSC), Chicago Title Company, Real Time Resolutions, Inc., and Randy Miguel d.b.a. Wire Financial (collectively, "Defendants") failed to disclose important information about their

¹ This disposition is not designated for publication in the official reports.

1 mortgage in the clear and conspicuous manner as required by law. Plaintiffs filed the initial
2 complaint in this action on October 1, 2009. On October 23, 2009, Plaintiff filed the instant *ex*
3 *parte* application for a temporary restraining order (“TRO”).² Plaintiffs seek an order enjoining
4 Defendants from selling, invading, trespassing, or soliciting the Plaintiffs’ property located at
5 1558 Minnesota Avenue, San Jose, CA 95125-4445. A trustee sale of the property is scheduled
6 for Friday, October 30, 2009.

7 **II. DISCUSSION**

8 Before the Court can consider Plaintiffs’ application for a TRO, Plaintiffs must serve all
9 parties potentially affected. The subject property is located at 1558 Minnesota Avenue, San Jose,
10 CA 95125-4445. It appears that this same property also is at issue in another case filed by
11 Plaintiffs and pending before this Court (*Carnero v. Luke Weaver, et al*, C 09-1995 JF (RS)).
12 Consequently, parties that have yet to receive notice of Plaintiffs’ application include, but are not
13 limited to: Luke Weaver, Worldwidesavers.com Home Loans, New Century Mortgage
14 Corporation, Homeq Service Company, Deutsche Bank National Trust Company, and TD
15 Service Company. Until all interested parties receive such notice, the Court cannot entertain
16 Plaintiff’s application.

17 **III. ORDER**

18 Good cause therefore appearing, IT IS HEREBY ORDERED that Plaintiffs’ *ex parte*
19 application for a TRO is DENIED without prejudice pending proper service upon all interested
20 parties.

21
22 DATED: October 27, 2009

23 
24 JEREMY FOGEL
25 United States District Judge

26
27 ² Though purportedly an *ex parte* motion, the instant application indicates that Plaintiffs
28 attempted to contact Defendants regarding the TRO on October 20, 2009. Plaintiffs also faxed
the application to Defendants that same day.

1 This Order was served upon the following persons:

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Jose R. Carnero
Marta C. Carnero
1559 1/2 Minnesota Avenue
San Jose, CA 95125-4445