

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GABRIEL JAMES DeLEON and SHAWNA L. DeLEON,

Plaintiffs,

v.

WELLS FARGO BANK, N.A., Successor by Merger to Wells Fargo Bank Southwest, N.A. (formerly known as Wachovia Mortgage, FSB and World Savings Bank, FSB); NDEX WEST, L.L.C.; and DOES 1-50, inclusive,

Defendants.

Case No.: 10-CV-01390-LHK

ORDER GRANTING IN PART DEFENDANT’S MOTION TO SHORTEN TIME ON MOTION TO EXPUNGE; ADVANCING HEARING ON MOTION TO DISMISS AND MOTION TO STRIKE; SETTING BRIEFING SCHEDULE

On December 30, 2010, Defendant Wells Fargo filed a motion to shorten time for the hearing on its motion to expunge the *lis pendens*. The motion to expunge is currently set for hearing on February 17, 2011, along with Wells Fargo’s pending motion to dismiss and motion to strike the Second Amended Complaint. Wells Fargo represents that it has found a buyer for the property concerned in this case; that it cannot proceed with the sale until the *lis pendens* is expunged; and that the buyer will likely retreat from the sale if forced to wait until the scheduled hearing date to complete the transaction. The Court agrees that these circumstances present good

1 cause to shorten the time for hearing the motion to expunge. However, because the issues
2 presented in the motion to expunge are intertwined with the issues in the motion to dismiss and
3 motion to strike, the Court believes that all three motions should be heard together. Accordingly,
4 in order to provide the parties sufficient time to brief the motions, the Court will reschedule the
5 hearing for January 27, 2011, with briefing as follows:

6 (1) Plaintiffs shall file opposition briefs to Defendant's motion to dismiss, motion to strike, and
7 motion to expunge the *lis pendens* by January 18, 2011.

8 (2) Defendant may file a reply by January 21, 2011.

9 (3) The Court will hold a hearing on the motion to dismiss, motion to strike, and motion to
10 expunge the *lis pendens* on January 27, 2011, at 1:30 p.m.

11 In order to ensure that Plaintiffs receive prompt notice of the revised motion schedule, Defendant is
12 ordered to serve this order on Plaintiffs at the email address that Defendant has used to
13 communicate with them.

14 **IT IS SO ORDERED.**

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16 Dated: January 3, 2011

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19 LUCY H. KOH
20 United States District Judge