

**E-Filed 8/5/2011 **

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

11
12 OSCAR MADRIGAL SENCION,

13 Plaintiff,

14 v.

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16 SAXON MORTGAGE SERVICES, LLC;
17 OCWEN LOAN SERVICING, LLC; DEUTSCHE
18 BANK NATIONAL TRUST COMPANY, as
19 TRUSTEE FOR NATIXIS REAL ESTATE
20 CAPITAL TRUST 2007-HE2; and DOES 1
through 100 , inclusive

21 Defendants.

Case Number 5:10-cv-3108 JF

**ORDER¹ GRANTING MOTION TO
DISSOLVE PRELIMINARY
INJUNCTION**

22 On May 17, 2011, the Court enjoined Defendants from proceeding with enforcement of
23 a writ of possession and from any sale or encumbrance of the subject property during the
24 pendency of this action on the condition that Plaintiff make monthly payments of \$5,087.50.
25 On June 8, 2011, Defendant Ocwen Loan Servicing, joined by Deutsche Bank, moved to
26 dissolve the injunction on the ground that Plaintiff has failed to make any monthly payments.

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

1 Plaintiff responded, indicating that he had been out of the country for several weeks because of
2 a death in his family and that he “intends to make monthly payments to preserve the preliminary
3 injunction and will do so prior to the hearing date of this motion.” Pl.’s Op. 2:13-17. However,
4 Ocwen filed a supplemental declaration on July 28, 2011, stating that as of that date Plaintiff
5 still had not made any payments pursuant to the injunction. Edwards Decl. ¶ 2. Ocwen’s reply
6 also included deposition testimony by Plaintiff indicating that he earns between \$4,000 and
7 \$12,000 per month. *Id.*, ex. A. At the hearing on August 5, 2011, Plaintiff’s counsel indicated
8 that Plaintiff did not intend to meet the condition of the injunction.

9 The Court enjoined Defendants from taking possession of the property on the condition
10 that Plaintiff make monthly payments. No payments have been made in the intervening two and
11 half months, and it appears that Plaintiff does not intend to make any such payments.
12 Accordingly, Defendants’ motion is granted, and the injunction is hereby dissolved.

13 **IT IS SO ORDERED.**

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15 DATED: August 5, 2011


16 JEREMY FOGEL
United States District Judge