

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MARGARITA M. SANCHEZ,)	Case No.: 11-CV-00959-LHK
)	
Plaintiff,)	
)	
v.)	ORDER DENYING RENEWED
)	REQUEST FOR TEMPORARY
WACHOVIA MORTGAGE CORPORATION,)	RESTRAINING ORDER AND SETTING
WELLS FARGO BANK, N.A., NDEX WEST,)	DATE FOR DEFENDANTS' RESPONSE
LLC, and Does 1-100, inclusive,)	TO PLAINTIFF'S RESPOSNE TO OSC
)	
Defendants.)	

On April 14, 2011, this Court issued an order denying an *ex parte* Application for Temporary Restraining Order (TRO) seeking to enjoin a foreclosure sale set for April 15, 2011. *See* Dkt. No. 15. The Court found that Plaintiff had not articulated a likelihood of success on the merits of her claim, and that Plaintiff's delay in bringing the application weighed against the fairness of granting her request. The Court also ordered Plaintiff to show cause why her case should not be dismissed for failure to prosecute in light of her failure to oppose Motions to Dismiss and Strike filed on March 22, 2011.

Today, April 18, 2011, Plaintiff has filed a "renewed" *ex parte* Application for a TRO enjoining the sale, which she states has been re-scheduled for April 19, 2011 (tomorrow). In the renewed Application, Plaintiff does not raise any new, persuasive legal or factual bases indicating a likelihood of success on the merits and thus justifying a TRO. Because Plaintiff's renewed

1 Application does not change the Court's analysis, the Court DENIES Plaintiff's request for a TRO
2 for the same reasons set forth in the April 14, 2011 Order.¹

3 Plaintiff has also filed a response to the Order to Show Cause. *See* Dkt. No. 25. Plaintiff
4 titled this document "Response to OSC Re Dismissal of Action and Opposition to Mtn to Dismiss."
5 However, the Court noted in the April 14, 2011 Order that Plaintiff was not permitted to file a late
6 Opposition to the Motion to Dismiss or the Motion to Strike without leave of Court. To the extent
7 Plaintiff's response advances arguments in opposition to those Motions, it is not properly before
8 the Court. Plaintiff must seek leave to file Oppositions to those Motions. Plaintiff's response to
9 the OSC makes serious allegations that Defendants have falsified proofs of service in this matter
10 and have otherwise misled Plaintiff's counsel. Defendants may respond to Plaintiff's response by
11 April 26, 2011.

12 **IT IS SO ORDERED.**

13 Dated: April 18, 2011

14 
15 LUCY H. KOH
16 United States District Judge

17
18
19
20
21
22
23
24
25 ¹ In addition, in the Application and the accompanying documents, Plaintiff states that she has not
26 received timely service of various documents. For example, Plaintiff states that she did not receive
27 Defendants' Opposition to the first Application for TRO until April 15, 2011 (although it was
28 electronically filed April 14, 2011). Pursuant to General Order 45, all attorneys must sign up to
receive electronic service of all documents in this case. *See* G.O. 45, IX.B. It appears that
Defendants' Opposition was e-mailed to Plaintiff's counsel's listed e-mail address on April 14,
2011.