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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MARY JULIET NG,  
Plaintiff,  
v.  
US BANK TRUSTEE, NA, et al.,  
Defendants.

Case No. [15-cv-04998-PSG](#)

**ORDER DENYING APPLICATION FOR  
TEMPORARY RESTRAINING ORDER**

**(Re: Docket No. 55)**

The court has before it Plaintiff Mary Juliet Ng’s application for a temporary restraining order to prevent Defendants U.S. Bank N.A. and Select Portfolio Servicing Inc. from proceeding with a foreclosure of Ng’s home.<sup>1</sup> Ng admits that she refinanced the home in 2007 but has made no payments on the loan since 2010.<sup>2</sup> Ng nevertheless claims that Defendants cannot initiate a foreclosure because they have no interest in the deed of trust and because certain recorded assignments of Ng’s deed of trust were invalid.<sup>3</sup> Because a party seeking a temporary restraining order must establish a likelihood of success on the merits,<sup>4</sup> the court examines whether Ng has made that showing.

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<sup>1</sup> See Docket No. 55.

<sup>2</sup> See *id.* at 16.

<sup>3</sup> See Docket No. 45 at ¶¶ 8-19.

<sup>4</sup> See *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *DISH Network Corp. v. FCC*, 653 F.3d 771, 776-77 (9th Cir. 2011). These cases involve preliminary injunctions, but the standard for temporary restraining orders is the same. See *Stuhlberg Int’l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001); *Lockheed Missile & Space Co., Inc. v. Hughes Aircraft Co.*, 887 F. Supp. 1320, 1323 (N.D. Cal. 1995).

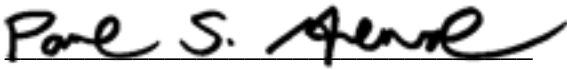
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Although Ng’s complaint alleges eleven causes of action,<sup>5</sup> her application focuses on just one: wrongful foreclosure.<sup>6</sup> After reviewing the papers and considering the parties’ arguments at today’s hearing,<sup>7</sup> the court cannot say that Ng is likely to succeed on the merits of her wrongful foreclosure claim. The reason is that, under California law, a plaintiff may not bring a preemptive action for wrongful foreclosure before the sale takes place.<sup>8</sup> This is precisely what Ng has done.

The application for a temporary restraining order is DENIED.

**SO ORDERED.**

Dated: April 22, 2016

  
PAUL S. GREWAL  
United States Magistrate Judge

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<sup>5</sup> See *id.* at ¶¶ 24-120.

<sup>6</sup> In her application, Ng does reference her other claims. But she offers nothing to meet her burden of establishing that she is likely to succeed on any of these claims.

<sup>7</sup> See Docket No. 62.

<sup>8</sup> See, e.g., *Saterback v. JPMorgan Chase Bank, N.A.*, 199 Cal. Rptr. 3d 790, 795-96 (Ct. App. 2016); *Rosberg v. Bank of America, N.A.*, 219 Cal. App. 4th 1481, 1493 (2013); *Lawrence v. Wells Fargo Bank, N.A.*, Case No. 14-cv-01272, 2014 WL 2705425, at \*7 (N.D. Cal. June 13, 2014).