

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

OSRIC DIXON, et al.,
Plaintiffs,

v.

NATIONSTAR MORTGAGE LLC, et al.,
Defendants.

Case No. 16-CV-00031-LHK

**ORDER REGARDING QUESTIONS
FOR ORAL ARGUMENT**

A hearing on Defendants' Motion to Dismiss, ECF No. 5, is scheduled for March 10, 2016, at 1:30 p.m. The parties should be prepared to address the following questions at oral argument:

Questions for Both Parties

- The parties' Joint Case Management Statement states that the parties believe that evaluating Plaintiffs for a loan modification is the form of ADR most likely to lead to a resolution of this matter. Please be prepared to discuss the date when that evaluation will be complete.
- Both parties brief *res judicata* by applying the 9th Circuit's federal "transactional nucleus of facts" test. Because the prior decision at issue was a California state court decision, why isn't the California "primary rights" test the correct standard to apply? See *Brodheim v. Cry*, 584 F.3d 1262, 1268 (9th Cir. 2009).

Questions for Defendants

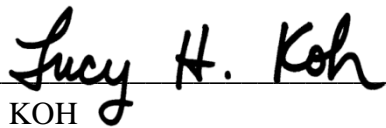
- If the “primary rights” test applies, does the prior state court judgment bar Plaintiffs’ Fair Debt Collection Practices Act claim to the extent that the claim is based on Defendants seeking payment under an allegedly void note or deed of trust?
- Was Plaintiffs’ loan in default in 2010? If so, did Nationstar obtain its alleged rights after the loan was in default? Similarly, did Deutsche Bank Trust Company Americas obtain its alleged rights after the loan was in default? Can this be determined from the First Amended Complaint and attachments?

Questions for Plaintiffs

- The parties’ Joint Case Management Statement states that Defendant Quality Loan Service Corporation filed a declaration of nonmonetary status under Cal. Civ. Code. § 2924l without objection. It further states that Quality may therefore be disregarded as a nominal party that need not participate further in the lawsuit. Given the parties’ joint representation to the Court concerning Quality, do Plaintiffs agree that Plaintiffs’ claims against the remaining three Defendants are the only remaining claims in the case?

IT IS SO ORDERED.

Dated: March 8, 2016



LUCY H. KOH
United States District Judge