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8	UNITED STATES DISTRICT COURT	
9	SOUTHERN DISTRICT OF CALIFORNIA	
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11	GEOFFREY MONCRIEF, LEILA MONCRIEF, individuals,	CASE NO. 10CV350 DMS (RBB)
12	Plaintiffs,	ORDER DENYING APPLICATION FOR TEMPORARY
13	VS.	RESTRAINING ORDER
14	WASHINGTON MUTUAL, F.A., et al.,	[Doc. 12.]
15	Defendants.	
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17	Ι.	
18	BACKGROUND	
19	This matter comes before the Court on Plaintiffs' application for a temporary restraining order	
20	("TRO") to prevent Defendants from foreclosing on or selling Plaintiffs' residence. Plaintiffs filed	
21	the instant motion and a First Amended Complaint ("FAC") on April 1, 2010, and served both on	
22	Defendants. Defendants filed an opposition to the motion. (Doc. 13.)	
23 24	The FAC alleges the following claims for relief: (1) intentional misrepresentation, (2)	
24 25	fraudulent concealment, (3) breach of fiduciary duty, (4) constructive fraud, (5) quiet title, (6) violation	
23 26	of the Truth in Lending Act ("TILA"), and (7) violation of the Real Estate Settlement Procedures Act	
20 27	("RESPA"). The FAC states Plaintiff Geoffrey Moncrief refinanced his primary residence on July 20,	
28	2007, by obtaining a loan through Defendant Washington Mutual, using the broker services of Defendant La Jolla Finance. (FAC at ¶¶ 6-7.) Pursuant to the original Deed of Trust, California	
_0	Defendant La Jona Finance. (FAC at]] 0-7.)	r ursuant to the original Deed of Trust, California

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Reconveyance Company was the original Trustee of Plaintiffs' property. (Defs'. RJN, Ex. 1.)¹ On
 October 27, 2009, California Reconveyance Company filed a Notice of Default and Election to Sell
 Plaintiffs' property. (*Id.* at Ex. 2.)

On February 1, 2010, California Reconveyance Company filed a Notice of Trustee's Sale
scheduling a sale for February 22, 2010. (*Id.* at Ex. 3.) On February 12, 2010, Plaintiffs filed the
instant lawsuit, and on February 16, 2010, Plaintiffs filed an application for a temporary restraining
order. (Docs.1, 7.) That motion was later withdrawn, apparently due to a postponement of the
trustee's sale. (Doc. 9.) According to Plaintiffs, the trustee's sale is now scheduled for April 8, 2010.
(Pl. Mem. P. & A. 3.)

II.

DISCUSSION

12 The purpose of a temporary restraining order is to preserve the status quo before a preliminary 13 injunction hearing may be held; its provisional remedial nature is designed merely to prevent 14 irreparable loss of rights prior to judgment. See Granny Goose Foods, Inc. v. Brotherhood of 15 Teamsters & Auto Truck Drivers, 415 U.S. 423, 439 (1974) (noting that a temporary restraining order 16 is restricted to its "underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer"). The standard for issuing a temporary 17 18 restraining order is identical to the standard for issuing a preliminary injunction. Lockheed Missile & 19 Space Co., Inc. v. Hughes Aircraft Co., 887 F. Supp. 1320, 1323 (N.D. Cal. 1995). A party seeking 20 injunctive relief under Federal Rule of Civil Procedure 65 must show either (1) a combination of 21 probable success on the merits and the possibility of irreparable harm, or (2) that serious questions are 22 raised and the balance of hardships tips sharply in the moving party's favor. Sun Microsystems, Inc. 23 v. Microsoft Corp., 188 F.3d 1115, 1119 (9th Cir. 1999); Roe v. Anderson, 134 F.3d 1400, 1402 (9th 24 Cir. 1998). "These two formulations represent two points on a sliding scale in which the required 25 degree of irreparable harm increases as the probability of success decreases." Roe, 134 F.3d at 1402 (quoting United States v. Nutri-cology, Inc., 982 F.2d 394, 397 (9th Cir. 1992)); accord Sun 26 Microsystems, 188 F.3d at 1119. "Thus, 'the greater the relative hardship to the moving party, the less 27

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¹ Defendants' request for judicial notice is granted.

1	probability of success must be shown."" Sun Microsystems, 188 F.3d at 1119 (quoting National Ctr.	
2	for Immigrants Rights v. INS, 743 F.2d 1365, 1369 (9th Cir. 1984)).	
3	Here, Plaintiffs have shown a possibility of irreparable harm in the potential loss of their	
4	residence. However, Plaintiffs have not demonstrated either "a combination of probable success on	
5	the merits" of their claims, nor have they raised any serious questions about the merits of their claims.	
6	In the absence thereof, Plaintiffs are not entitled to a temporary restraining order.	
7	III.	
8	CONCLUSION	
9	For these reasons, Plaintiffs' motion for temporary restraining order is denied.	
10	IT IS SO ORDERED.	
11	DATED: April 7, 2010	
12	John m. Solom	
13	HON. DANA M. SABRAW United States District Judge	
14	Onned States District Judge	
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