

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

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 That motion was later withdrawn, apparently due to a postponement of the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

10 **II.**
11 **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
17 just so long as is necessary to hold a hearing, and no longer"). The standard for issuing a temporary
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
26 (quoting *United States v. Nutri-cology, Inc.*, 982 F.2d 394, 397 (9th Cir. 1992)); *accord Sun*
27 *Microsystems*, 188 F.3d at 1119. "Thus, 'the greater the relative hardship to the moving party, the less

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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.

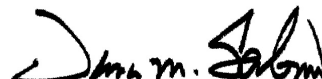
7 **III.**

8 **CONCLUSION**

9 For these reasons, Plaintiffs’ motion for temporary restraining order is denied.

10 **IT IS SO ORDERED.**

11 DATED: April 7, 2010



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13 HON. DANA M. SABRAW
14 United States District Judge