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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
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10 DIANA V. BOSDET,

11 Plaintiff,

12 vs.

13 CHEVY CHASE BANK; T.D. SERVICE
14 COMPANY,

15 Defendants.

CASE NO. 10CV2169 BEN (CAB)

**TEMPORARY RESTRAINING
ORDER**

16 On October 18, 2010, pro se Plaintiff Diana Bosdet filed a Verified Complaint against
17 Defendants Chevy Chase Bank and T.D. Service. The Verified Complaint included an Application
18 for a Temporary Restraining Order. (V. Compl. ¶¶ 102-103.) The Court ordered Plaintiff to serve
19 Defendants with the Verified Complaint and the Court's order setting the TRO Application for briefing
20 and hearing. Defendants' opposition to the TRO was due by October 27, 2010. Plaintiff served
21 Defendants as ordered, but Defendants have filed no opposition.

22 Plaintiff alleges thirteen claims for relief, including violations of the Truth in Lending Act, the
23 Fair Debt Collections Practices Act, the Real Estate Settlement Procedures Act, and numerous state
24 law claims. Plaintiff alleges she entered into a mortgage with Chevy Chase Bank to purchase the
25 residence at 7245 Fay Avenue in La Jolla California. She alleges she believed she was receiving a 30-
26 year fixed rate mortgage, but approximately nine months later, discovered she had been given an
27 adjustable rate mortgage. Plaintiff alleges she contacted Defendant Chevy Chase Bank regarding a
28 loan modification and was told to stop making payments on the loan because the bank would only

1 provide a loan modification if she was in default. Plaintiff alleges she did as instructed, applied for
2 a loan modification, confirmed a week later the documents were received, and was told processing
3 would take several months. Plaintiff alleges that when she heard nothing she followed up and was told
4 her application was missing and she needed to reapply. This allegedly happened a few times before
5 she received a conditional loan modification. When she followed up on the status of her insurance and
6 taxes, Plaintiff alleges she was told to submit a fourth loan modification application. That application
7 was denied and Defendant Chevy Chase Bank issued a Notice of Trustees Sale for the property.
8 Plaintiff alleges that when she contacted Defendant Chevy Chase Bank she was told that if she could
9 make a couple of payments of \$25,000-30,000 the bank was more likely to approve her loan
10 modification. Plaintiff alleges she agreed to make the payments suggested, but was unable to reach
11 the agent until he contacted her to inform her that her loan application had been denied. Plaintiff
12 alleges she contacted Defendant 7-8 times about a short sale, but she was informed that the bank would
13 not consider it. Plaintiff alleges her attempts to short sale the property have failed because of
14 Defendants' conduct.

15 A TRO is a form of preliminary injunctive relief limited to "preserving the status quo and
16 preventing irreparable harm just so long as is necessary to hold a hearing." *Granny Goose Foods, Inc.*
17 *v. Teamsters*, 415 U.S. 423, 439 (1974). Plaintiff must demonstrate she is likely to succeed on the
18 merits, likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities
19 tips in her favor, and that an injunction would be in the public interest. *American Trucking Ass'n, Inc.*
20 *v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter v. Natural Res. Def.*
21 *Council, Inc.*, 129 S. Ct. 365, 374 (2008)).

22 Plaintiff has met these requirements only with regard to her request to enjoin any action against
23 her real property. Plaintiff's loss of her residence through foreclosure constitutes a threat of irreparable
24 injury. *Sundance Land Corp. v. Cmty. First Fed. Savings and Loan Ass'n*, 840 F.2d 653, 661 (9th Cir.
25 1988).

26 Accordingly, Plaintiff's Application for a TRO is **GRANTED. IT IS HEREBY ORDERED**
27 **that Defendants and their agents are enjoined from proceeding with the foreclosure sale of**
28 **Plaintiff's property at 7245 Fay Avenue in La Jolla, California, 92037.**

1 This matter is set for a preliminary injunction hearing on **November 8, 2010 at 10:30 a.m.**
2 Defendants shall file any opposition to a preliminary injunction on or before **November 3, 2010.**

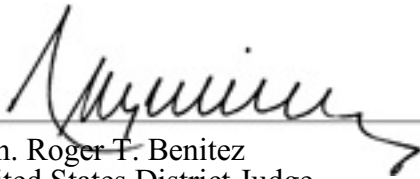
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4 **IT IS SO ORDERED.**

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6 DATED: October 28, 2010

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Hon. Roger T. Benitez
United States District Judge

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