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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

KRISTI C. OLIVAS,

vs.

RECONTRUST COMPANY, N.A.,
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,

Defendants.

CASE NO. 11CV1331-LAB (NLS)

**ORDER DENYING *EX PARTE*
APPLICATION FOR NOTICE OF
*LIS PENDENS***

On July 28, the Court accepted by discrepancy order a request from Plaintiff asking that the Court approve a notice of *lis pendens* (*i.e.*, notice of pendency of action) so that Plaintiff could record it. Because Plaintiff is proceeding *pro se*, approval by the Court is required before the notice can be recorded. Cal. Civ. Proc. Code § 405.21. Defendants then filed a response in opposition pointing out that this action does not present a “real property claim” as defined in Cal. Civ. Proc. Code § 405.4, because it seeks monetary damages only, and does not affect title or right to possession of real property.

Assuming Plaintiff prevails in this action, she will be entitled to monetary damages, but the title or possessory rights of real property would be unaffected. Section 405.4 also permits *lis pendens* notices where the causes of action, if meritorious, would affect use of

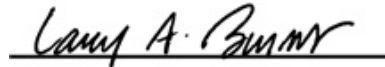
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1 an easement, but that is not implicated here either. Defendants are therefore correct that
2 no "real property claim," as defined in § 405.4, is presented here.

3 Because the complaint does not raise a real property claim, meritorious or otherwise,
4 no notice of *lis pendens* is appropriate. See Cal. Civ. Proc. Code §§ 405.2 (defining notice
5 of *lis pendens*, as "a notice of the pendency of an action in which a real property claim is
6 alleged."); 405.20 ("A party to an action who asserts a real property claim may record a
7 notice of pendency of action in which that real property claim is alleged.") The *ex parte*
8 application (Docket no. 12) is therefore **DENIED**.

9 **IT IS SO ORDERED.**

10 DATED: August 5, 2011

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12 **HONORABLE LARRY ALAN BURNS**
13 United States District Judge

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