

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

THEODORE F. FLETSCHER,

Plaintiff,

Civ. No. 11-3133-CL

**TEMPORARY RESTRAINING ORDER**

v.

BAC HOME LOANS SERVICING LP  
and RECONTRUST COMPANY, N.A.,

Defendants.

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**PANNER, J.**

Plaintiff seeks an ex parte temporary restraining order to enjoin the foreclosure sale of his house. Plaintiff alleges the house is scheduled for a foreclosure sale on November 21, 2011 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Amongst other arguments, plaintiff alleges defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc., 2011 WL 2119103, \*3 (D. Or. May 25) (citing

Burgett v. MERS, 2010 WL 4282105, at \*2 (D. Or. Oct. 20) and In re McCoy, 2011 WL 477820, at \*3-4 (Bankr. D. Or. Feb. 7)).

Plaintiff alleges MERS is listed as the beneficiary on the deed of trust at issue.

Because of the alleged imminent foreclosure sale, and because the presence of MERS demonstrates a high probability that defendants did not comply with the recording requirements of the Oregon Trust Deed Act, I grant plaintiff's request for a temporary restraining order (#2). Defendants, and their officers, agents, etc..., and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale for the following property: 707 Vincent Road, Central Point, Oregon, from this day until Thursday, December 1, 2011, at 5:00 p.m. This court will hold a hearing on whether to issue a preliminary injunction at 90:00 a.m. on December 1, 2011, in the James A. Redden Courthouse in Medford.

IT IS SO ORDERED.

DATED this 17 day of November, 2011 at 10:00 clock A.M.



OWEN M. PANNER  
U.S. DISTRICT JUDGE