

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CHRISTOPHER BIANCHI and
ELEANOR BIANCHI,

Plaintiffs,

1:12-CV-1601-PA

TEMPORARY RESTRAINING ORDER

v.

BANK OF AMERICA, N.A. and
QUALITY LOAN SERVICE
CORPORATION OF WASHINGTON,

Defendants.

PANNER, District Judge.

Plaintiffs seek an ex parte temporary restraining order to enjoin the foreclosure sale of their house. Plaintiffs allege the house is scheduled for a foreclosure sale on September 18, 2012 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Amongst other arguments, plaintiffs allege defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure proceedings. MERS is listed as the beneficiary on the deed of trust.

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) (internal citation omitted; In re McCoy, 2011 WL 477820, at *3-4 (Bankr. D. Or. Feb. 7)); James v. Recontrust Co., et al, 2012 WL 653871, at *19-20 (D. Or. Feb. 29).

Because of the alleged imminent foreclosure sale, and because plaintiffs' allegations demonstrate a sufficient likelihood of success on the merits of her claim that defendants did not comply with the recording requirements of the Oregon Trust Deed Act, I grant plaintiffs' request for a temporary restraining order (#5). Defendants, and their officers and agents, 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: 44 Elm Street, Phoenix, Oregon, from this day until Friday, September 28, 2012, at 5:00 p.m. I will hold a hearing on whether to issue a preliminary injunction at 8:30 a.m. on September 28, 2012, in the James A. Redden Courthouse in Medford.

IT IS SO ORDERED.

DATED this 14 day of September, 2012 at 3 o'clock PM



Owen M. Panner
United States District Judge