

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JAMES LANE and DAWNA LANE,)
)
Plaintiffs,)
vs.)
VITEK REAL ESTATE INDUSTRIES)
GROUP dba VITEK MORTGAGE)
GROUP, a California corporation;)
MORTGAGE ELECTRONIC)
REGISTRATION SYSTEMS, INC., a)
California corporation; AURORA LOAN)
SERVICES, INC., a Delaware corporation;))
CITIMORTGAGE, INC., a New York)
corporation; CAL-WESTERN)
RECONVEYANCE CORP., a California)
corporation, and DOES 1 to 100, inclusive,)
)
Defendants.)

Case No.: 2:10-CV-00096-WBS-GGH
**ORDER GRANTING PLAINTIFFS' EX
PARTE APPLICATION AND MOTION FOR
TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE PENDING
PRELIMINARY INJUNCTION**

**DATE: February 9, 2010
TIME: 4:00 P.M.
DEPT: Courtroom 5, 14th Floor
CASE FILED: February 9, 2010**

Hon. William B. Shubb

This matter came on for hearing on plaintiffs' ex parte motion for a temporary restraining order at 4:00 p.m. on February 9, 2010. Plaintiffs were represented by Stephen C. Ruehmann. No appearance was made on behalf of any of the defendants. Counsel has submitted a declaration setting forth the manner in which notice was given, or attempted to be given, to each

1 of the defendants. On reading the ex parte application with supporting points and authorities of
2 Plaintiffs JAMES LANE and DAWNA LANE (“Plaintiffs”), the declarations of Plaintiffs and
3 Stephen C. Ruehmann, the Request for Judicial Notice, file and Complaint herein, it appears to the
4 satisfaction of the Court that this is a proper case for granting a temporary restraining order and an
5 order to show cause pending preliminary injunction, and that unless the temporary restraining order
6 prayed for be granted, great or irreparable injury will result to Plaintiffs before the matter can be
7 heard on regular notice.
8

9 Specifically, it appears that the threatened injury is the foreclosure upon plaintiffs’ home and
10 that such injury would be irreparable for the reasons discussed in Chetal v. American Home Mortg.,
11 No C 09-02727 CRB, 2009 WL 2612312, at *2(N.D.Cal. Aug. 24, 2009). From a reading of the
12 complaint, assuming all of the facts alleged therein to be true, it appears that plaintiffs are likely to
13 succeed at least on their state law claim of wrongful foreclosure. This order is issued without further
14 notice to defendants because counsel for plaintiff has represented that he gave notice the best he
15 could, and given the short time the court had to consider the motion the court was unable be
16 determine any way that notice could be more effectively given to each of the defendants.
17

18 Accordingly, IT IS HEREBY ORDERED that Defendants VITEK REAL ESTATE
19 INDUSTRIES GROUP, dba VITEK MORTGAGE GROUP, a California Corporation;
20 MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AURORA LOAN SERVICES,
21 INC., a Delaware corporation; CITIMORTGAGE, INC., a New York corporation; and CAL-
22 WESTERN RECONVEYANCE CORP., a California Corporation (collectively “Defendants”), and
23 each of them, appear in Courtroom 5, 14th Floor of this Court, located at 501 I Street, Sacramento,
24 CA 95814 at **10 a.m. on February 19, 2010**, or as soon thereafter as the matter may be heard, then
25 and there to show cause, if any they have, why they and their agents, servants, employees, and
26 representatives, and all persons acting in concert on participating with them, should not be enjoined
27
28

1 or restrained during the pendency of this action from engaging in, committing, or performing,
2 directly or indirectly, any and all of the following acts:

- 3 a. Selling, transferring, conveying, foreclosing upon, evicting or any other conduct adverse to
4 Plaintiff regarding the real property located at 8442 Hidden Lakes Drive, Granite Bay,
5 California, 95746.

6 IT IS FURTHER ORDERED that, pending the hearing and determination of the order to
7 show cause the above named Defendants, and each of them, and their officers, agents, employees,
8 representatives and all persons acting in concert or participating with them, are restrained and
9 enjoined from engaging in or performing directly or indirectly, any and all of the following acts: -
10

- 11 a. Selling, transferring, conveying, foreclosing upon, evicting or any other conduct adverse to
12 plaintiff regarding the real property located at 8442 Hidden Lakes Drive, Granite Bay,
13 California, 95746.

14 IT IS FURTHER ORDERED that:

- 15 a. Plaintiff shall serve this order to show cause on defendants forthwith in the manner provided by
16 law.
17
18 b. Proof of service must be delivered forthwith prior to the court hearing the Order to Show Cause.
19
20 c. The parties shall adhere to the following briefing schedule:

21 Plaintiff: February 11, 2010

22 Defendants: February 16, 2010

23 Reply: February 18, 2010

24 This TRO shall expire at 4:30 p.m. on: February 19, 2010.

25 IT IS FURTHER ORDERED that copies of the summons, complaint, ex parte application,
26 declarations, memorandum of points and authorities, request for judicial notice and this order to
27 show cause and temporary restraining order be served on defendants by personal service, fax or
28 email no later than February 10, 2010.

1 **This temporary restraining order shall not become operative or have any effect unless and**
2 **until plaintiffs file proof of the posting of a secured bond in the sum of \$10,000.00 pursuant**
3 **to Federal Rule of Civil Procedure 65(c)..**

4 Issued at 501 I Street, Sacramento, California, at 4:30 p.m., on February 9, 2010.

5
6 

7
8 WILLIAM B. SHUBB
9 UNITED STATES DISTRICT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28