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Attorney for Plaintiff (s)
ERIC SHOCKLEY and CHARLES FETTERS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA**

ERIC SHOCKLEY and CHARLES
FETTERS,

Plaintiff,

V.

NDEX WEST LLC, LLC; CHASE HOME
FINANCE LLC; LIME FINANCIAL
SERVICES LTD., a corporation;
MORTGAGE ELECTRONIC
REGISTRATION SYTEMS; JP MORGAN
CHASE BANK N.A. As Attorney in Fact
for U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
CITIGROUP MORTGAGE LOAN TRUST
INC., ASSET-BACKED PASS-THROUGH
CERTIFICATES, SERIES 2006-
HE3; LONG BEACH MORTGAGE
COMPANY; NEW CENTURY TITLE
COMPANY; U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
CITIGROUP MORTGAGE LOAN TRUST
INC., ASSET-BACKED PASS THROUGH
CERTIFICATES, SERIES 2006-HE3 and
DOES 1 through 50 inclusive,

and DOES 1 through XX inclusive

Defendants.

Case No.: C11-00865

DECLARATION RE MOTION RE
TEMPORARY RESTRAINING ORDER AND
INJUNCTION filed concurrently with NOTICE
AND MOTION RE TEMPORARY
RESTRAINING ORDER AND INJUNCTION;
MEMORANDUM OF POINTS AND
AUTHORITIES

DATE: 05/11/11
TIME: 1:30 p.m.
DEPT: 60

1 WE, PLAINTIFF ERIC SHOCKLEY and CHARLES FETTERS, declare:

2 We are the Plaintiffs in the above-entitled matter, are owners of the real property at
3 203 S. 13th Street, Richmond, CA 94084. The Legal descriptions are as follows:

4 APN: 544120002; NYSTROMS ADD N LOTS 34 TO 37 BLK 7

5 We, have a personal knowledge of the facts herein, except as to those matters alleged
6 on information and belief, and as to those matters, we believe them to be true, could
7 and would competently testify thereto if called upon to do so.

- 8
- 9 1. We respectfully request that this Honorable Court postponed the trustee sale currently
10 scheduled this May 16, 2011. We are victims of a predatory toxic loan. A complaint
11 regarding this very issue was filed on April 11, 2011, Contra Costa Superior Court
12 Case #: C 11-00865 and we implore the court to take judicial notice of the Forensic
13 Analysis [Exhibit "D" to our complaint] of our loan which, as you will see, reflect
14 grave flaws and how the lenders and foreclosing defendants non-compliance with the
15 laws and the recent foreclosure laws. We also request that the court take judicial
16 notice of our complaint.
- 17
- 18 2. We refinanced our home on in 2006. We then approached Ameritech to assist with
19 this refinancing. We relied, to our detriment, on Brenda Frasier, a representative
20 from Ameritech. We could not obtain the loan but we were able to obtain a new first
21 with prepayment penalty, due in two years. Additionally, we obtained a second loan,
22 which is a balloon payment.
- 23
- 24 3. We obtained the Loan through Lime Financial. Ms. Frasier also advised us that the
25 loan had to be under PLAINTIFF ERIC SHOCKLEY only and had to sign a 593-C
26 form. She told us that our due to the "uniqueness" of our home, and in order to obtain
27
28

1 a loan, that we had to deed plaintiff CHARLES FETTERS out of the title. Frasier said
2 this had to be done because comparables were hard to find. She then used an
3 appraiser that Ameritech recommended.

- 4 4. Ms. Frasier and Ameritech did not comply with the foreclosure laws.
- 5 5. She did not inform us, as required by law, of the adjustable rate interests and balloon
6 payment. We found out later on that Ameritech and broker Frasier used a non-
7 existent index.
- 8 6. Our broker, through Ameritech, broke her fiduciary duty. We were given a toxic
9 loan, which can now be proven that we did not meet the qualifying standards yet we
10 were approved. Please see exhibit 1 to this declaration [Forensic Analysis].
11 Additionally, our income was inflated which we did not know about. We requested
12 an impound account, but found out there was not enough funds, but Ameritech
13 somehow obtained **\$13,841.66 in fees.**
- 14 7. Ameritech and the lenders knew that the likelihood of repayment of this loan could be
15 unlikely yet we were induced to take this loan because they took advantage of our
16 ignorance. When we discovered after two years that a balloon payment would be
17 coming up, we requested the assistance of Chase Home to modify our loan. We
18 found out that our original lender, LIME was a wholesaler of loans and sold our loan
19 to J.P. CHASE and defendant HSBC. We also learned that U.S. BANK
20 ASSOCIATION and CITIGROUP mortgage are now the current creditors and that
21 the loan is being serviced by CHASE.
- 22 8. Defendants did not comply with the new foreclosure laws – Civil Code 2923.5 et seq,
23 2934(a) et seq. We were not contacted by the lender even though they submitted a
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1 Declaration of Due Diligence on their Notice of Default. We were not given
2 alternatives to foreclosure as mandated by the law.

- 3 9. The Notice of Default and all subsequent actions are unlawful because The Notice of
4 Default was recorded on *June 17, 2009*. The Substitution of Trustee was executed
5 **after** the Notice of Default was filed, thus rendering the Notice of Default voidable.
6 The Assignment Deed of Trust was also executed **after the Notice of Default** was
7 recorded, which was July 10, 2009.
8
9 10. We can verify that this loan was originated between January 2003 and December
10 2007 and this property is not non-owner occupied as required by California Civil
11 Code 2923.5.
12
13 11. We never received by certified mail the Notice of Default as required by California
14 Civil Code 2924 for a proper foreclosure
15
16 12. We were never contacted through telephone or in person by the lender, and/or its
17 agents, prior to 30 days before default.
18
19 13. We were advised that we have a right to a subsequent meeting within fourteen (14)
20 days of the initial contact. We did not have any meeting after 14 days as required by
21 California Civil Code 2923.5.
22
23 14. The proper party to foreclose and the party that has standing to foreclose and/or
24 record a Notice of Default and Notice of Trustee's Sale is not this Defendant.
25
26 15. We were not advised nor given any recorded documents of our loan being transferred
27 or sold. We were the ones that opted to use Chase to assist us with the loan
28 modification and instead, received a loan modification monthly payment that was
more than we can afford. CHASE did modify our loan but never reduced the

principal. They lowered the interest rate which was not helpful since they *increased the payment by finally setting up the impound account*

16. We strongly feel that we were taken advantage of, because we are of age and, that the fact that our home is located in Richmond – a predominantly black community and now, upon reflection, we **now feel we dealt with a predatory lender and were redlined because of our zip code.**

17. Out of desperation, we even attempted to go through NACA – the government subsidized agency created by the Obama Administration to assist homeowners in peril, such as us. We volunteered for two days in order to get ahead of the long lines of people requesting assistance. Much to our dismay and after months of grueling submission and re-submission of documents, even NACA could not get through these gargantuan banks who, in the past, the courts allowed, or turned a blind eye to their non-compliance with the law.

18. Our story was published on television in the Bay Area; the public saw the outrageous conduct of the banks in that they were still allowed to handle foreclosures. Because of homeowners who voiced out their complaints, like us, we respectfully remind the court that it was just late last year [September 30, 2010] that the California State General demanded that JP Morgan Chase halt all foreclosures [See Exhibit “2”] because it was proven that employees admitted to robo-signing foreclosure documents without proper review. Bank of America, GMAC, Ally followed suit.

19. We implore the court to issue a temporary restraining order as against the DEFENDANTS, which include the trustee and potential holders of the deed of trust. This unlawful foreclosure to our home has caused us tremendous stress and affected

our health. We request that the court stay the foreclosure until a hearing by this court to determine whether a preliminary injunction should be issued. We do not believe that there will be any prejudice to the Defendants.

20. We make the foregoing declaration under penalty of perjury pursuant to the laws of the State of California and do affix our signatures here this 10th day of May 2011.

ERIC SHOCKLEY

CHARLES FETTERS