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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

JOSEFA LOPEZ, JOSE TRINIDAD CASAS, )  
MARIA C. CASAS, TYRONE EVENSON, )  
MICHELLINA EVENSON, BRYAN GRAY, )  
HELEN GRAY, CHRIS PETERNEL, and )  
PATRICK FRANKOSKI, individually )  
and on behalf of similarly )  
situated individuals, )

Plaintiffs, )

vs. )

EXECUTIVE TRUSTEE SERVICES, LLC.; )  
COUNTRYWIDE HOME LOANS, INC., a )  
New York corporation; RECONTRUST, )  
MERSCORP, INC. a Virginia )  
corporation; FEDERAL HOME LOAN )  
MORTGAGE CORPORATION, a Virginia )  
corporation; FEDERAL NATIONAL )  
MORTGAGE ASSOCIATION, a District )  
of Columbia corporation; GMAC )  
MORTGAGE, LLC, a Delaware )  
corporation; NATIONAL CITY )  
MORTGAGE, a foreign company and a )  
division of NATIONAL CITY BANK, a )  
subsidiary of National City )  
Corporation; NATIONAL CITY )  
CORPORATION, a Delaware )  
corporation and a subsidiary of )  
PNC Financial Services, Inc.; PNC )  
FINANCIAL SERVICES, INC. a )  
Pennsylvania corporation; J.P. )  
MORGAN CHASE BANK, N.A., a New )  
York corporation; CITIMORTGAGE, )  
INC., a New York corporation; HSBC )  
MORTGAGE CORPORATION, U.S.A., a )  
Delaware corporation, AIG UNITED )  
GUARANTY CORPORATION, a foreign )  
corporation; WELLS FARGO BANK, )  
N.A., a California corporation, )  
dba WELLS FARGO HOME EQUITY and )  
dba WELLS FARGO HOME MORTGAGE, )

3:09-CV-180-ECR-VPC

Temporary Restraining Order

1 a division of WELLS FARGO BANK, )  
 N.A., a California Corporation; )  
 2 WELLS FARGO dba AMERICAS SERVICING )  
 CO., NATIONAL DEFAULT SERVICING )  
 3 CO., BANK OF AMERICA, N.A., a )  
 Delaware corporation, and GE MONEY )  
 4 BANK, an Ohio corporation; CAPITAL )  
 ONE dba CHEVY CHASE BANK, GALE )  
 5 GROUP dba TD FINANCIAL SERVICE CO. )  
 dba TD SERVICE COMPANY, JOHN AND )  
 6 JANE DOES I-X; BLACK AND WHITE )  
 PARTNERSHIP I-X; AND ABC )  
 7 CORPORATION I-X; )  
 )  
 8 Defendants. )  
 )  
 9 )

10 Plaintiffs Jose Trinidad Casas, Maria C. Casas, Tyrone Evenson,  
 11 Michellleta Evenson, Bryan Gray, Helen Gray, Chris Peternel, and  
 12 Patrick Frankoski have filed a "Motion for Temporary Restraining  
 13 Order and Preliminary Injunction for Plaintiffs Casas, Evenson,  
 14 Gray, Peternel, and Frankoski" (#36), which seeks to restrain  
 15 Defendants Executive Trustee Services, LLC, GMAC, Countrywide,  
 16 Recontrust, Gale Group dba TD Financial Service Co. dba TD Service  
 17 Co., Capital One dba Chevy Chase Bank, National Default Servicing,  
 18 Wells Fargo dba Americas Servicing Corporation, and MERS from  
 19 foreclosing on the plaintiffs' houses.  
 20

21 It appears from the plaintiffs' motion (#36) and the documents  
 22 attached thereto that the defendants seek immediately to foreclose  
 23 on most of the plaintiffs' properties. The plaintiffs likely would  
 24 suffer irreparable injury if the foreclosure were to proceed.

25 The Casases received a Notice of Default and Election to Sell  
 26 on February 25, 2009. It is not clear when the sale will be held.  
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1 The Evensons had been informed that their home would be sold on  
2 November 4, 2008; however, they continue to live in the house. They  
3 claim that they never received notice that their home was in  
4 foreclosure.

5 The Grays' home is scheduled for sale on May 20, 2009; it is  
6 not clear whether the Grays were given notice of the sale, but a  
7 Notice of Trustee's Sale has been filed.

8 Mr. Peternel has never received any Notice of Default and  
9 Election of Sale; however, in early January 2009, Peternell claims  
10 that he was told over the phone that he was in foreclosure. Despite  
11 never receiving notice, Peternell also claims that two separate  
12 "Notice of Default and Election of Sale" documents are on record  
13 with the Carson City Recorder. While no sale date has been  
14 scheduled, Peternel is "constantly worried that Countrywide will  
15 again schedule a sale and this time sell my home at foreclosure  
16 without notice to me." (Aff. of Peternel, Ex. 5 ¶ 10 (#36).)

17 Mr. Frankoski's home is scheduled for sale on May 6, 2009;  
18 Frankoski claims that he never received any notice that his home was  
19 in foreclosure until he received the Notice of Sale on April 7,  
20 2009.

21 **IT IS HEREBY ORDERED** that the motion (#36), to the extent it  
22 seeks a temporary restraining order, is **GRANTED** as to Plaintiffs  
23 Jose Trinidad Casas, Maria C. Casas, Tyrone Evenson, Michelleta  
24 Evenson, Bryan Gray, Helen Gray, and Patrick Frankoski. Each  
25 plaintiff household shall post security in the amount of \$500,  
26 except for Plaintiff Patrick Frankoski, pursuant to Fed. R. Civ. P.  
27 65(c).

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1 The motion (#36) is **DENIED** as to Plaintiff Chris Peternel; it  
2 does not appear that there is a threat of irreparable injury as no  
3 notice has been given that a judicial foreclosure is contemplated or  
4 imminent with respect to his house.

5 **IT IS FURTHER ORDERED** that Defendants Executive Trustee  
6 Services, LLC, GMAC, Countrywide, Recontrust, Gale Group dba TD  
7 Financial Service Co. dba TD Service Co., Capital One dba Chevy  
8 Chase Bank, National Default Servicing, Wells Fargo dba Americas  
9 Servicing Corporation, and MERS and any and all other persons or  
10 entities in active concert with them, are hereby temporarily  
11 restrained from pursuing any foreclosure action, taking possession  
12 of, or in any other manner interfering with the peaceful enjoyment  
13 and possession by the plaintiff of their property located in the  
14 State of Nevada.

15 The plaintiffs have filed affidavits where the affiants swear  
16 that the defendants have been served with copies of the amended  
17 complaint and motion for temporary restraining order. The purpose  
18 of the temporary restraining order is to preserve the status quo and  
19 prevent irreparable harm before a preliminary injunction hearing may  
20 be held.

21 This temporary restraining order shall remain in full force and  
22 effect until May 19, 2009 at 5:00 p.m.

23 **IT IS FURTHER ORDERED** that a hearing on the plaintiffs' motion  
24 (#36) is set for May 19, 2009, at 10:00 a.m. The hearing will be  
25 limited to the following issues:

26 (1) whether the appropriate parties are seeking to foreclose on  
27 the various properties and whether those parties gave the  
28 necessary notice; and

1 (2) whether the originating lenders unscrupulously targeted  
2 people who could not repay the offered loans just to obtain the  
loan origination fee.

3 **IT IS FURTHER ORDERED** that the plaintiffs shall in all future  
4 filings with the Court comply with Special Order No. 108, which  
5 requires that particular information, including social security  
6 numbers, exact dates of birth, financial account numbers, and  
7 specific home addresses be omitted from papers filed with the Court.

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9 DATED: May 5, 2009 at 4:20 p.m.

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12 UNITED STATES DISTRICT JUDGE

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