

Renee Shizue Yamagishi
2703 Mathews Street
Berkeley, CA 94702

Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse

Yamagishi Plaintiff/Petitioner(s)	No. <u>RG19015807</u>
VS.	Order
Nationstar Mortgage LLC Defendant/Respondent(s) (Abbreviated Title)	Order to Show Cause re Preliminary Injunction

The Order to Show Cause Why a Preliminary Injunction Should Not Issue, issued by the court on April 23, 2019 ("OSC"), pursuant to the Ex Parte Application filed by Plaintiff Renee Shizue Yamagishi aka Renee Shizue Ramos ("Plaintiff") on April 22, 2019, was set for hearing on May 14, 2019, at 3:00 p.m. in Department 22 before the Honorable Robert McGuiness. A tentative ruling was published and was contested.

The matter was argued and submitted. Good cause appearing, IT IS HEREBY ORDERED THAT the hearing is CONTINUED to 3:00 p.m. on June 11, 2019, in Dept. 22, Administration Building, 4th Floor, 1221 Oak St., Oakland.

After considering the arguments in the papers and at the hearing on May 14, 2019, the court finds it appropriate to defer ruling on the OSC until after the parties have an opportunity to engage in further meaningful settlement efforts. At the hearing, the court discussed this with Plaintiff and counsel for Defendants Nationstar Mortgage LLC et al. ("Defendants"), and requested that defense counsel send an email to Department 22 by May 21, 2019, stating whether Defendants would be available for a mandatory settlement conference ("MSC") in the imminent future and would agree to postpone the scheduled foreclosure sale for a short period for this purpose. On May 21, 2019, Defendants' counsel Amanda Hamilton sent an email to Department 22 stating that, while Defendants "urge the court to deny the Preliminary Injunction and dissolve and vacate the TRO, pursuant to the tentative ruling issued on 5/13/19," the "sale date can be moved from 6/5." Although Ms. Hamilton's email states that "[f]rom my understanding, Aztec needs the order from the court dissolving the TRO in order to move the date," this was not sufficiently explained either in the original email or in a follow-up email sent on May 22, 2019. The court exercises its authority to effect a brief postponement of the foreclosure sale by extending the TRO for a short period pending a continued hearing on the OSC.

In the follow-up email, Ms. Hamilton stated "[a]s all parties are anxious to resolve this as soon as possible, we suggest, if the Court can accommodate us, that the MSC date be moved up. We are available for June 7 or June 14 mandatory conference (with briefs due 7 days before) although we would prefer June 7th."

To accommodate this request, and to minimize the length of a postponement of a trustee's sale, the court has scheduled an MSC at 9:00 a.m. on June 7, 2019, in Department 303, with Commissioner Thomas Rasch. Plaintiff and Defendants' lead negotiating counsel must PERSONALLY ATTEND the MSC. Defendants' representatives with full authority to consent to settlement MAY APPEAR BY PHONE, but must be immediately available by telephone throughout the conference until released by the court. The details are to be arranged with Department 303, by contacting Dept.303@alameda.courts.ca.gov.

Parties must comply with all applicable rules and code provisions regarding MSCs, including California

Rule of Court (CRC) 3.1380. No later than May 31, 2019, each party must serve on opposing parties, and DELIVER DIRECTLY TO THE SETTLEMENT DEPARTMENT a hard copy Settlement Conference Statement (SCS) that includes a detailed discussion of liability and damages. The SCS must also contain a good faith settlement demand or offer as of the date the settlement conference statement is signed. DO NOT E-MAIL OR FILE, INCLUDING BY FAX, THE SCS WITH THE COURT.

IT IS ORDERED that the temporary restraining order issued on April 23, 2019, shall remain in effect until the court issues an order on the OSC after the continued hearing date above. More specifically, Defendants, their agents, attorneys and representatives, and all persons acting in concert or participation with them, are restrained from selling, attempting to sell, or causing to be sold at trustee sale, any interest in the property either under the power of sale clause contained in the Deed of Trust or by a Judicial Foreclosure Action, the parcel of real property identified in Plaintiff's complaint, which is located at the address commonly known as 2703 Mathews Street, Berkeley, California, Assessor Parcel Number 054-1740-029, pending further order of the court after the continued hearing date above.

The clerk is directed to serve copies of this order, with proof of service, to counsel and to self-represented parties of record by mail, which shall satisfy the purposes of notice of entry of order under C.C.P. § 1019.5(a).

Dated: 05/22/2019

 - facsimile

Judge Robert McGuiness