

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Shehata v. PHH Mortgage Corporation

Shehata v. PHH Mortgage Corp., No. 3:25-cv-02085-JES-MSB (S.D. Cal. Sept. 29, 2025) · No. 3:25-cv-02085-JES-MSB · Decided September 29, 2025

SUMMARY

The United States District Court for the Southern District of California denies Plaintiff Nada Shehata’s motion to remand and emergency motion for a temporary restraining order in a foreclosure-related action against PHH Mortgage Corporation. The court concludes that diversity jurisdiction exists because the parties are completely diverse and the amount in controversy exceeds \$75,000. Although Plaintiff raised a serious question concerning possible dual tracking under the California Homeowner’s Bill of Rights, the court finds no sufficient likelihood of success on the merits and denies injunctive relief.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	James E. Simmons Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	September 29, 2025
DOCKET	3:25-cv-02085-JES-MSB
DISPOSITION	other
PROCEDURAL POSTURE	Defendant removed case from state court; plaintiff moved to remand and for temporary restraining order.
PRECEDENTIAL VALUE	unpublished

TOPICS

- subject matter jurisdiction
- injunctions
- foreclosure
- civil procedure
- remedies

PRACTICE AREAS

- civil procedure
- real estate
- consumer protection

QUESTIONS PRESENTED

1. Whether removal to federal court was proper based on diversity jurisdiction
2. Whether plaintiff was entitled to a temporary restraining order to halt foreclosure

HOLDINGS

1. Removal was proper because complete diversity existed and the amount in controversy exceeded \$75,000.
2. Plaintiff did not show likelihood of success on the merits, even under the 'serious questions' test, because any potential HBOR violations were not material to her inability to obtain a loan modification and were cured by defendant's voluntary postponement of the foreclosure sale.

FACTUAL BACKGROUND

Plaintiff executed a deed of trust in 2006 using her property as security for a loan. After two loan modifications in 2017 and 2020, plaintiff defaulted. On July 3, 2025, plaintiff submitted a loan modification application. Defendant recorded a notice of trustee's sale on July 8, 2025, while the application was pending. On August 11, 2025, defendant denied the application because plaintiff was more than 90 days delinquent.

PROCEDURAL HISTORY

Plaintiff filed complaint in San Diego Superior Court. Defendant removed to federal court. Plaintiff moved to remand and sought a TRO. Court denied both motions.

DISPOSITION

other

CASES CITED

- *Gunn v. Minton*, 568 U.S. 251 (2013)
- *Gaus v. Miles, Inc.*, 980 F.2d 564 (9th Cir. 1992)
- *Hansen v. Grp. Health Coop.*, 902 F.3d 1051 (9th Cir. 2018)
- *Hunter v. Philip Morris USA*, 582 F.3d 1039 (9th Cir. 2009)
- *Kanter v. Warner-Lambert Co.*, 265 F.3d 853 (9th Cir. 2001)
- *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894 (9th Cir. 2006)
- *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81 (2014)
- *Ibarra v. Manheim Investments, Inc.*, 775 F.3d 1193 (9th Cir. 2015)
- *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089 (9th Cir. 2003)
- *Corral v. Select Portfolio Servicing, Inc.*, 878 F.3d 770 (9th Cir. 2017)
- *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7 (2008)
- *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281 (9th Cir. 2013)
- *Morton v. Wells Fargo Bank, N.A.*, 2016 WL 7117041 (N.D. Cal. 2016)
- *Penermon v. Wells Fargo Bank, N.A.*, 47 F.Supp.3d 982 (N.D. Cal. 2014)

- *Almazon v. JPMorgan Chase Bank*, 2020 U.S. Dist. LEXIS 41668 (S.D.N.Y. 2020)
- *Covin v. FCI Lender Services Inc.*, 2015 WL 13777210 (N.D. Ga. 2015)

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