

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PRECEDENTIAL VALUE	unpublished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)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 NADA ADEL SHEHATA, Case No.: 3:25-cv-02085-JES-MSB 12 Plaintiff,
ORDER: 13 v. (1) DENYING PLAINTIFF’S 14 PHH MORTGAGE CORPORATION, MOTION
TO REMAND TO STATE 15 Defendant. COURT; and 16 (2) DENYING TEMPORARY 17
RESTRAINING ORDER 18 19 Pending before the Court are two motions filed by Plaintiff Nada
Shehata 20 (“Plaintiff”), proceeding pro se: a Motion to Remand the matter back to state court and
an 21 Emergency Motion for Temporary Restraining Order (“TRO”).

ECF Nos. 5, 8. Plaintiff 22 brings the instant action against PHH Mortgage Corporation
 (“Defendant” or “PHH”) for 23 claims related to its foreclosure on her home. The motions are
fully briefed. After due 24 consideration and for the reasons discussed below, the Court DENIES
Plaintiff’s motions. 25 // 26 // 27 // 28 1 I. BACKGROUND 2 A. Factual Background 3 Plaintiff’s
claims against PHH arise from its impending foreclosure on her home.

4 ECF No. 1 (“NOR”). In 2006, Plaintiff executed a Deed of Trust using her property at 5 10483
Garden Walk Court, San Diego, as security for a loan of \$511,992. ECF No. 12-1 ¶ 6 3. On two
occasions, in 2017 and 2020, Plaintiff and Defendant entered into loan 7 modification agreements.
ECF No. 12-1 ¶¶ 4-5. Plaintiff subsequently defaulted on the 8 modified loan and is currently
delinquent for her monthly payment due on April 1, 2023.

9 ECF No. 12 at 1. On October 30, 2024, PHH recorded a Notice of Default and election to 10 sell
Plaintiff’s home under deed of trust. ECF No. 12-6. 11 On July 3, 2025, Plaintiff submitted a
Mortgage Assistance Application (“MAA”) 12 to PHH, seeking a “Helping Homeowners” loan
modification. ECF No. 18-2 at 2.

On July 13 7, 2025, Plaintiff received a letter from PHH confirming receipt of the MAA and 14
supporting documentation, stating that it may order a property valuation and would provide 15 the
plaintiff with a free copy of the report. ECF No. 18-2 at 4. 16 On July 8, 2025, Defendant
continued foreclosure proceedings by recording a Notice 17 of Trustee’s Sale ECF No. 18-2 at 6.

On July 12, 2025, Plaintiff followed up by email about 18 her Helping Homeowner loan
modification application. ECF No. 18-2 at 25. PHH 19 apologized and stated that it had forwarded
the application internally for review. Id. On 20 July 15, 2025, PHH sent Plaintiff the same
confirmation of receipt she had received on July 21 3, 2025, regarding her application.

ECF No. 18-2 at 27, 44. 22 On August 11, 2025, Defendant denied Plaintiff’s application for a
Helping 23 Homeowners loan modification, explaining that her loan was ineligible for the
program 24 because she was more than 90 days delinquent on payment. ECF No. 12-8. 25 B. The

Pending Motions 26 Plaintiff filed her initial complaint in this matter in San Diego Superior Court on 27 July 22, 2025.

NOR ¶ 1. On August 13, 2025, PHH removed the case to federal court, 28 arguing both diversity jurisdiction and federal question jurisdiction grounds for removal. 1 See generally NOR. On August 15, 2025, Plaintiff moved to remand the case, arguing that 2 neither ground for removal existed and that the equities favored the state court hearing the 3 case. ECF No. 5.

On September 4, 2025, Defendant filed an opposition to the motion to 4 remand. ECF No. 11. On September 11, 2025, Plaintiff filed a reply brief. ECF No. 18. 5 While the case was before the state court, Plaintiff applied for a TRO to halt the 6 trustee's sale of her home. ECF No. 8.

On September 4, 2025, Defendant filed its 7 opposition to plaintiff's TRO application. ECF No. 12. On September 11, 2025, Plaintiff 8 filed a reply brief. ECF No. 18. On September 16, 2025, Defendant filed a sur-reply. ECF 9 No. 20.

In its sur-reply, Defendant stated that it would voluntarily postpone the September 10 22, 2025, foreclosure sale of the property for 60 days to give Plaintiff time to refinance the 11 loan or sell the property to pay off the loan. Id. at 2. 12 II. LEGAL STANDARD 13 A. Motion to Remand 14 Federal courts are courts of limited jurisdiction. *Gunn v. Minton*, 568 U.S. 251, 256 15 (2013).

In a case originally brought in state court, a defendant may remove the action to 16 federal court if there is federal subject matter jurisdiction. 28 U.S.C. § 1441(a) ("Except as 17 otherwise expressly provided by Act of Congress, any civil action brought in a State court 18 of which the district courts of the United States have original jurisdiction, may be removed 19 by the defendant or the defendants, to the district court of the United States for the district 20 and division embracing the place where such action is pending."). "Consistent with the 21 limited jurisdiction of federal courts, the removal statute is strictly construed against 22 removal jurisdiction." *Audo v. Ford Motor Co.*, 2018 WL 3323244, at *1 (S.D.

Cal. July, 23 2018) (citing *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992)). Therefore, the 24 "burden of establishing that removal is proper" always lies with the defendant. *Gaus*, 980 25 F.2d at 566. If there is any doubt as to the propriety of removal, the court shall reject federal 26 subject matter jurisdiction. Id.; see also *Hansen v. Grp. Health Coop.*, 902 F.3d 1051, 1057 27 (9th Cir.

2018) ("If a district court determines at any time that less than a preponderance 28 of the evidence supports the right of removal, it must remand the action to the state court."). 1 Federal subject matter jurisdiction may arise based on federal question or diversity 2 jurisdiction. 28 U.S.C. § 1331, 1332(a).

In the notice of removal, Defendant states that this court has federal subject matter jurisdiction over the matter based on diversity jurisdiction. 4 NOR ¶ 11. The statute requires complete diversity between plaintiffs and defendants. 5 Hunter v. Philip Morris USA, 582 F.3d 1039, 1043 (9th Cir. 2009). An individual is deemed 6 to be a citizen of the state in which he or she is domiciled.

Kanter v. Warner-Lambert Co., 7 265 F.3d 853, 857 (9th Cir. 2001). A limited liability corporation is “a citizen of every state 8 of which its owners/members are citizens.” Johnson v. Columbia Properties Anchorage, 9 LP, 437 F.3d 894, 899 (9th Cir. 2006). Further, to satisfy § 1332, the matter in controversy 10 must exceed the sum or value of \$75,000, exclusive of interests and costs.

28 U.S.C. 11 § 1332(a). 12 Under 28 U.S.C. § 1446, a defendant removing a civil action from state to federal 13 district court must include “a short and plain statement of the grounds for removal,” 14 including as to the amount in controversy being met. 28 U.S.C. § 1446(a). Where a plaintiff 15 challenges the defendant’s allegation of jurisdiction under § 1332(a), § 1446 provides that 16 “removal of the action is proper on the basis of an amount in controversy asserted [in the 17 notice of removal] if the district court finds, by the preponderance of the evidence, that the 18 amount in controversy exceeds the amount specified in section 1332(a).” 28 19 U.S.C. §1446(c)(2)(B); see Dart Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 20 81, 88 (2014).

In Dart, the Supreme Court recognized that this provision was added to § 21 1446 as part of the Federal Courts Jurisdiction and Venue Clarification Act of 2011 to 22 “clarify[] the procedure in order when a defendant’s assertion of the amount in controversy 23 is challenged.

In such a case, both sides submit proof and the court decides, by a 24 preponderance of the evidence, whether the amount-in-controversy requirement has been 25 satisfied.” Id. Even though Dart arose under the Class Action Fairness Act (“CAFA”), 26 other courts within this district have applied this framework to non-CAFA cases. See De 27 Villing v. Sabert Corp., No. EDCV 18-2201 JGB (KKx), 2018 WL 6570868, at *2 (C.D.

28 Cal. Dec. 11, 2018) (noting that Dart interpreted 28 U.S.C. § 1446 which applies equally 1 to CAFA and general diversity jurisdiction cases and collecting cases applying Dart to 2 non-CAFA cases). 3 Thus, the evidence that the Court may consider here includes “evidence outside the 4 complaint, including affidavits or declarations, or other ‘summary-judgment-type evidence 5 relevant to the amount in controversy at the time of removal.’” Ibarra v. Manheim 6 Investments, Inc., 775 F.3d 1193, 1197 (9th Cir.

2015) (citing Singer v. State Farm Mut. 7 Auto. Ins. Co., 116 F.3d 373, 377 (9th Cir. 1997)). Removal jurisdiction therefore cannot 8 rely on “mere speculation and conjecture, with

unreasonable assumptions.” Id. 9 B. Temporary Restraining Order 10 The legal standard for issuing a TRO is essentially identical to the standard for 11 issuing a preliminary injunction.

See *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is an “extraordinary remedy 13 that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” 14 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). 15 Generally, a plaintiff seeking a preliminary injunction must show: (1) the plaintiff is 16 likely to succeed on the merits; (2) the plaintiff is likely to suffer irreparable harm in the 17 absence of preliminary relief; (3) the balance of equities tips in favor of the plaintiff; and 18 (4) an injunction is in the public interest.

Id. at 20. “A ‘plaintiff [must] make a showing on 19 all four prongs’ to obtain a preliminary injunction.” *A Woman’s Friend Pregnancy Res. 20 Clinic v. Becerra*, 901 F.3d 1166, 1167 (9th Cir. 2018) (quoting *Alliance for the Wild 21 Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011)). 22 The Ninth Circuit also has a “serious questions” test, “a ‘sliding scale’ variant of the 23 Winter test.” *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 24 (9th Cir.

2024) (quoting *Alliance for the Wild Rockies*, 865 F.3d 1211, 1217 (9th Cir. 25 2017)). The serious questions test dictates that a plaintiff may still prevail in obtaining a 26 TRO even if they can only show that there are “‘serious questions going to the merits’ – a 27 lesser showing than likelihood of success on the merits – [...] if the ‘balance of hardships 28 tips sharply in the plaintiff’s favor.’” *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1 1281, 1291 (9th Cir.

2013) (quoting *Alliance for the Wild Rockies*, 632 F.3d at 1135). Thus, 2 under the serious questions test, a preliminary injunction can be granted if there are (1) 3 serious questions going to the merits, (2) a likelihood of irreparable injury to the plaintiff, 4 (3) a balance of hardships that tips sharply towards the plaintiff, and (4) the injunction is 5 in the public interest.

Flathead-Lolo-Bitterroot Citizen Task Force, 98 F.4th at 1190 6 (quoting *Alliance for the Wild Rockies*, 632 F.3d at 1135). The party moving for the TRO 7 has the burden of persuasion. *Hill v. McDonough*, 547 U.S. 573, 584 (2006). 8 III. DISCUSSION 9 A. Motion to Remand 10 Here, in the NOR, Defendant asserts this court has diversity jurisdiction. NOR ¶ 8. 11 Plaintiff does not dispute there is diversity of citizenship between Plaintiff and Defendant.

12 ECF No. 5. However, Plaintiff argues for remand on several grounds: (1) Plaintiff plans to 13 add a yet unknown California defendant; (2) Plaintiff’s assertion that damages will not 14 exceed \$70,000; (3) principles of fair play and state interest in applying California law to 15 a California property; and (4) that the substantive claims arise under state and not federal 16 law.

Id. At the hearing on the motion, Plaintiff conceded that the Court does indeed have 17 diversity jurisdiction to hear this matter. ECF No. 21. Notwithstanding Plaintiff’s 18 concession, the Court will still briefly address whether the amount in controversy 19 requirement has been met, since

diversity of citizenship is no longer in question. 20 The amount in controversy requirement has been met.

The amount in controversy is 21 determined by the complaint and encompasses all types of relief a plaintiff could receive. 22 *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413 (9th Cir. 2018). “Where it is not facially 23 evident from the complaint that more than \$75,000 is in controversy, the removing party 24 must prove, by a preponderance of the evidence, that the amount in controversy meets the 25 jurisdictional threshold.” *Matheson v. Progressive Specialty Ins.*

Co., 319 F.3d 1089, 1090 26 (9th Cir. 2003). In cases involving unfair and deceptive practices related to loan and 27 foreclosure services, courts in the Ninth Circuit have held that the amount in controversy 28 is determined by “the value of the object of the litigation.” See *Corral v. Select Portfolio 1 Servicing, Inc.*, 878 F.3d 770, 775 (9th Cir. 2017) (quoting *Hunt v. Wash. State Apple 2 Advert.*

Comm’n, 432 U.S. 333, 347 (1977)). Here, Plaintiff seeks relief of the subject 3 property and the loan. NOR at 11-12. The plaintiff’s application for a TRO states that the 4 loss of equity in the home will be almost \$700,000. ECF No 2-2, at 2. This clearly exceeds 5 the amount in controversy requirement.

Thus, both the diversity of citizenship requirement 6 and the amount in controversy requirement are met, and this Court has jurisdiction to hear 7 this case. See 28 U.S.C. 1441(b).1 8 Removal is proper under 28 U.S.C. § 1332 because complete diversity exists 9 between the parties and the amount in controversy exceeds \$75,000.

Because removal was 10 proper, the Court DENIES the motion to remand this case. 11 B. Temporary Restraining Order 12 Plaintiff raises serious issues regarding the second, third, and fourth Winter factors, 13 especially regarding the hardships to the residents of her home if a TRO is not granted. 14 ECF No. 1-3 at 9. Six people, including two elderly disabled persons and two children, live 15 at the house upon which Defendant seeks to foreclose.

Id. Plaintiff states that these 16 individuals are at risk of homelessness if the TRO is not granted and foreclosure occurs. 17 *Id.* The Court understands the seriousness of these issues for Plaintiff, and the gravity of 18 losing a multigenerational family home.

The Court acknowledges that the temporal 19 urgency of harm from a foreclosure is often greater for people losing their homes than for 20 financial institutions asserting value-backed interests. The Court also recognizes the public 21 interest in preventing homelessness among the elderly, those with disabilities, and children. 22 The Court does not reach the issue of balancing these interests against Defendant’s 23 interests, because Plaintiff’s motion does not meet the first Winter factor, likelihood of 24 success of the merits.

See *Shell Offshore*, 709 F.3d at 1291. Plaintiff raises four categories of legally cognizable claims: (1) that the defendant failed to follow procedural requirements regarding communication under the California Homeowner's Bill of Rights ("HBOR") before foreclosure; (2) that the defendant does not have legal title to the loan upon which it is foreclosing; (3) that the defendant engaged in unfair and deceptive practices; and (4) that the defendant engaged in illegal "dual tracking" under the HBOR and the Dodd-Frank Act by initiating foreclosure proceedings while Plaintiff was seeking a loan modification.

ECF No. 1-3. On the present record, Plaintiff has not met her burden of persuasion as to any of these claims. First, Plaintiff has not shown a serious question that Defendant materially breached the communication and notice requirements of the HBOR.

The relevant sections of the HBOR require mortgage servicers seeking foreclosure to: (1) contact the borrower in person or by telephone to explore options prior to foreclosure; (2) inform the borrower of foreclosure alternatives within 5 days of recording a notice of default; (3) assign the borrower a single point of contact when the borrower requests a foreclosure prevention alternative; and (4) provide written acknowledgement within 5 days of receipt of a loan modification application.

Cal. Civ. Code §§ 2923.55(b)(2)(A), 2924.9, 2923.7, 2924.10. The HBOR allows a borrower to seek injunctive relief when a lender commits a material violation, meaning a violation that affects the mortgagor's obligations or the modification process. Cal. Civ. Code § 2924.12(a); *Morton v. Wells Fargo Bank, N.A.*, No. 16-cv-05833- HRL, 2016 WL 7117041, at *4 (N.D.

Cal. Dec. 7, 2016). The HBOR notice and communication requirements were created to ensure that individuals facing foreclosure have notice of and opportunity to pursue alternatives to foreclosure. *Penermon v. Wells Fargo Bank, N.A.*, 47 F.Supp.3d 982, 992-93 (N.D. Cal. 2014). The record in this case shows that Defendant met each of the aforementioned pre- foreclosure communication provisions of the HBOR.

Defendant provided a declaration stating that it contacted Plaintiff to explore options prior to foreclosure pursuant to the HBOR. ECF No. 12-6 at 5. Defendant's communications to Plaintiff regarding her loan modification applications list a point of contact regarding her application. ECF No. 18-2 at 4. Defendant also sent acknowledgement emails within 5 days of receipt of loan modification applications.

ECF No. 18-2 at 2. The record also shows that the purposes of the HBOR were met in this case. Plaintiff was aware of the alternatives available to her, and had previously been informed many times that she was ineligible for further loan modifications due to her delinquent status and lack of documented change in financial circumstances. ECF No. 20 at 2-3.

Thus, Plaintiff has not raised a serious likelihood that 6 she will succeed on the merits in regards to her claims under the HBOR's notice and 7 communication requirements. 8 Second, the record indicates that Defendant has the right to enforce the mortgage in 9 question. Plaintiff generally states that Defendant relied on false or inaccurate documents 10 to initiate foreclosure proceedings, and expresses doubt regarding Defendant's right to 11 enforce the mortgage.

ECF No. 1-3 at 9-10. However, the deed of trust shows a loan with 12 clear terms secured by an interest in the property at issue. ECF No. 12-3. The deed of trust 13 is signed by Plaintiff. *Id.* Plaintiff does not dispute that the loan secured by the deed of trust 14 was in default. Plaintiff and Defendant have communicated for years about Plaintiff's 15 default on her mortgage.

ECF No. 12-1 at 3. Plaintiff fails to meet her burden of persuasion 16 that there are any issues with the documentation and ownership of this mortgage. 17 Third, Plaintiff did not introduce any non-conclusory evidence that Defendant 18 engaged in any specific unfair and deceptive practices.

The UCL provides remedies for 19 unfair and fraudulent business practices in California. Cal Bus. & Prof. Code § 17200. 20 Plaintiff's complaint states that Defendant engaged in unfair practices, but does not allege 21 specific unfair or fraudulent business practices other than communication and dual tracking 22 issues related to Defendant's foreclosure on her home.

ECF No. 1-3 at 7, 10. To the extent 23 that Plaintiff does allege specific unfair or deceptive practices, those claims fall under the 24 HBOR as discussed above. 25 Fourth, while Plaintiff does raise a serious question that Defendant engaged in illegal 26 dual tracking of Plaintiff's loan, Plaintiff does not show that dual tracking was material to 27 her inability to obtain a loan modification.

The HBOR prohibits mortgage servicers from 28 "dual tracking," which means "record[ing] a notice of default or notice of sale ... while the 1 [borrower's] complete first lien loan modification is pending." Cal. Civ. Code § 2923.6(c). 2 Defendant did move forward with the foreclosure by recording a notice of trustee's sale 3 after Plaintiff had applied for the Helping Homeowners modification and before 4 substantively responding to Plaintiff's application on August 11, 2025.

ECF Nos. 12-7, 18- 5 2 at 2, 12-8. Defendant claims that Plaintiff's application was only complete on July 15, 6 2025, after it recorded its notice of sale. ECF No. 12-2 ¶¶ 8, 9. However, Defendant sent 7 Plaintiff an email on July 3, 2025, stating her application was submitted. ECF No. 18-2 at 8 2. When Defendant recorded a notice of sale without responding to that application, 9 Plaintiff followed up by email about the application.

ECF No. 18-2 at 25. In response, 10 Defendant apologized, said it would review the materials, and then, on July 15, 2025, re- 11 sent Plaintiff the same acknowledgement form it sent her on July 3, 2025. *Id.*; *id.* at 27. 12 Defendant did not subsequently state that it required any further materials to review 13 Plaintiff's application.

On this record, it appears that Plaintiff reasonably believed that her 14 application was complete and unreviewed when Defendant recorded a notice of sale of her 15 home. Thus, Plaintiff raises a serious question regarding Defendant's potential dual 16 tracking of her home. 17 However, even if Defendant did impermissibly dual track Plaintiff's loan, there is 18 no indication on this record that the dual tracking was material to her inability to obtain a 19 loan modification.

Defendant stated in its communications with Plaintiff that she was 20 ineligible for the Helping Homeowners loan modification because her loan was more than 21 90 days delinquent. ECF No. 12-6. Because Plaintiff was ineligible for the loan 22 modification under its objective criteria, she cannot show that Defendant's potential 23 violation of HBOR was material as required for injunctive relief.

24 Further, any violation of the HBOR has been cured by Defendant's voluntary 25 extension of the foreclosure sale. The HBOR contains a safe harbor provision to encourage 26 mortgage servicers to cure potential violation: "A mortgage servicer ... shall not be liable 27 for any violation that it has corrected and remedied prior to the recordation of the 28 [foreclosure sale]." Cal. Civ.

Code § 2924.12(c). Defendant has now voluntarily extended 1 the date of the September 22, 2025, foreclosure sale by 60 days "to give Plaintiff time to 2 refinance the loan and/or sell the Property to pay off the loan." ECF No. 20 at 1. Given the 3 extension, Defendant has now responded and clearly communicated regarding the 4 foreclosure and ineligibility for modification long before moving forward with the sale.

5 Plaintiff's claims regarding lack of notice, communication, and failure to respond to 6 applications before proceeding with foreclosure are thus cured. 7 Plaintiff also alleges dual tracking violations under Regulation X, the Consumer 8 Financial Protection Bureau rules created under the Dodd-Frank Act which prohibit 9 mortgage servicers from continuing the foreclosure process while borrowers have 10 outstanding loan modification applications.

See 12 C.F.R. § 1024.41(f)-(g). Courts have 11 found that this statute does not provide for injunctive relief against foreclosure. *Almazon 12 v. JPMorgan Chase Bank*, 2020 U.S. Dist. LEXIS 41668, at *34 (S.D.N.Y. 2020). 13 Additionally, Regulation X's provision against dual tracking does not apply to subsequent 14 applications for loan modifications for which the borrower has already been found 15 ineligible.

Covin v. FCI Lender Services Inc., No. 1:15-CV-0594-AT, 2015 WL 13777210 16 at *3 n. 1 (N.D. Ga. 2015). Thus, Regulation X does not provide Plaintiff of a likelihood 17 of success on the merits sufficient to grant a TRO against foreclosure. 18 Given these facts, Plaintiff has not met her burden of persuading the Court that she 19 has some likelihood of success on the merits, even

under the Ninth Circuit’s lower standard 20 of “serious questions going to the merits.” See Winter, 555 U.S. at 20.

Accordingly, the 21 Court DENIES the application for a Temporary Restraining Order. 22 // 23 // 24 // 25 // 26 // 27 // 28 // 1 CONCLUSION 2 For the reasons stated above, the Court DENIES Plaintiff’s motion to remand this 3 //case to state court.

The Court also DENIES Plaintiff’s application for a Temporary 4 // Restraining Order. 5 IT IS SO ORDERED. 6 // Dated: September 29, 2025 7 * we oe 4. 8 Honorable James E. Simmons Jr. 9 United States District Judge 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28