

NOV 25 2009

Deputy Clerk _____

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

NOV 30 2009

ALAN CARLSON, Clerk of the Court

BY A. DANG

TERRY MABRY et al.,

Petitioners,

v.

THE SUPERIOR COURT OF ORANGE
COUNTY,

Respondent;

Aurora Loan Services et al.,

Real Parties in Interest.

G042911

(Super. Ct. No. 30-2009-0309696)

ORDER

Petitioners filed a petition for a writ of mandate and request for immediate stay. The request for immediate stay is GRANTED. The foreclosure sale of petitioners' home scheduled for November 30, 2009 is STAYED until further order of this court. The real parties in interest are invited to file an informal response by 10:00 A.M. on December 7, 2009. The informal response should address three issues: (1) Does the Home Owners Loan Act (HOLA), 12 U.S.C. §§ 1461 et seq., preempt petitioners' causes of action based on California Civil Code section 2923.5? (2) Does real parties' alleged noncompliance with the provisions of Civil Code section 2923.5, subdivision (b) provide a basis for

the injunctive relief petitioners seek in their first amended complaint? (3) Does the notice of default filed by real parties meet the requirements of California Civil Code section 2923.5, subdivision (b)?

SILLS, PJ.

SILLS, P. J.

* Before Sills, P. J., Aronson, J., and Ikola, J.

G042911

Mabry et al. v. Orange County Superior Court et al.

Superior Court of Orange County

Moses S. Hall

Law Offices of Moses S. Hall

2651 E. Chapman Ave Ste 110

Fullerton, CA 92831

Orange County Superior Court

Hon. David C. Velasquez Dept. CX101

751 W. Santa Ana Blvd.

Santa Ana, CA 92701

Donald Michael Scotten

The Scotten Law Office

725 S. Figueroa Street

Suite 3800

Los Angeles, CA 90017

Kevin Ralph McCarthy

2141 5th Avenue

San Diego, CA 92101