

FILED

1 PAUL NGUYEN  
LAURA NGUYEN  
2 16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
3 TELEPHONE: (714) 360-7602  
EMAIL: MNAPPAUL1@GMAIL.COM

2009 OCT 20 AM 11:38

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

4 Plaintiffs in Pro Persona

BY \_\_\_\_\_  
*(Signature)*

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

13 PAUL NGUYEN, an individual; and  
LAURA NGUYEN, an individual,

14 Plaintiffs,

16 v.

18 Chase Bank USA, N.A. et.al.

19 Defendants.

Case No. CV09-4589 AHM (AJWx)

NOTICE OF MOTION AND MOTION  
FOR ORDER TO SHOW CAUSE  
WHY DEFENDANTS CHASE BANK  
USA, NA, CHASE HOME FINANCE  
LLC AND FIRST AMERICAN  
LOANSTAR TRUSTEE SERVICES  
SHOULD NOT BE HELD IN  
CONTEMPT IN VIOLATING  
PRELIMINARY INJUNCTION  
ORDER; MEMORANDUM OF POINT  
AND AUTHORITY IN SUPPORT  
THEREOF.

JUDGE: A. HOWARD MATZ

ROOM: "14"  
DATE: Nov. 16, 2009  
TIME: ~~10:00~~ A.M.

10:00  
ACTION FILED: JUNE 25, 2009

25 TO DEFENDANTS AND ALL INTERESTED PARTIES:

26 Plaintiffs Paul Nguyen and Laura Nguyen respectfully request this Court,  
27 for an Order to Show Cause (1) why Defendants Chase Bank USA, NA, Chase  
28

PAUL NGUYEN  
16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
(714) 360-7602

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Home Finance LLC and First American Loanstar Trustee Services (collectively referred to herein as "Defendants") should not be held in contempt of the Temporary Restraining Order and Preliminary Injunction Order; (2) why Defendants should not be order to compensation Plaintiffs for their costs in connection with this proceeding, an award of compensatory damages; and (3) why Defendants should not be order to pay daily fines.

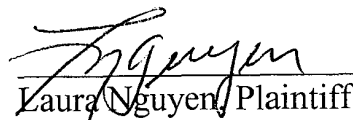
This Order to Show Cause is necessary in light of the facts that Defendant continually ignored this Court's orders and blatant disregard of laws in proceeding with foreclosure action despite Plaintiffs' notice of rescission and offer to tender; which is subject of this action.

DATED: October 19, 2009

Respectfully Submitted;

10 AM CT ROOM 14 11/16/09

  
Paul Nguyen, Plaintiff

  
Laura Nguyen, Plaintiff

1 **MEMORANDUM OF POINT AND AUTHORITY**  
2 **IN SUPPORT OF PLAINTIFFS’ MOTION FOR AN ORDER TO SHOW**  
3 **CAUSE RE CONTEMPT**

4 Plaintiffs hereby submit the following memorandum of point and authority in  
5 support of their Motion for an Order to Show Cause Re Contempt against Defendants  
6 Chase Bank USA, NA; Chase Home Finance LLC; and First American Loanstar  
7 Trustee Services.

8 **I. INTRODUCTION**

9 Plaintiff alleged in its First Amended Complaint that in December 2007,  
10 Plaintiff Paul Nguyen executed a promissory note from Chase Bank USA, NA for a  
11 personal loan of \$250,000.00. Such loan was to be secured by Plaintiff Paul  
12 Nguyen’ home which held in joint tenant with Plaintiff Laura Nguyen. Plaintiffs’  
13 complaint alleged that the recorded Deed of Trust (hereinafter “DOT”) is void *ab*  
14 *initio* because Plaintiff’s Laura Nguyen’s signature was forged which conveyed to  
15 Trustee nothing. Second, Plaintiffs’ alleged that Defendant Chase Bank USA, NA  
16 failed to provide “Notice to Right to Cancel” as required by TILA, an in light of this  
17 omission, Plaintiffs have made a valid notice to rescind the loan. In addition, to valid  
18 notice to rescind the loan, Plaintiffs made offer to tender as part of rescission, in  
19 which Defendants Chase Bank USA, NA failed to accept. Defendants Chase Bank  
20 USA, NA, through substituted Trustee, First American Loanstar Trustee Services,  
21 proceeds with non-judicial foreclosure and attempted to sell Plaintiffs’ home via  
22 auction.

23 On July 8, 2009, this Court granted Plaintiffs’ Temporary Restraining Order  
24 enjoined Defendant Chase Bank USA, NA from proceeding with foreclosure and  
25 sale of Plaintiffs’ home. Such Temporary Restraining Order was dissolved upon the  
26 grant of Preliminary Injunction order on August 3, 2009, in which, this Court  
27 unequivocally ordered “Defendants Chase Bank USA, NA and Chase Home Finance  
28 LLC directly or indirectly from proceeding with the foreclosure and sale” of

PAUL NGUYEN  
16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
(714) 360-7602

1 Plaintiffs' home. To date, Defendants continue to proceed with the foreclosure and  
2 sale of Plaintiffs' home in scheduling the auction on October 19, 2009 at 10:00 AM.  
3 Such auction was rescheduled for December 3, 2009 at 10:00 AM.

4 **II. STANDARD FOR CONTEMPT**

5 To prove contempt, Plaintiffs must show by clear and convincing evidence  
6 that: (1) valid court orders existed; (2) the defendants had knowledge of the orders;  
7 and (3) the defendants failed to comply with the orders. See FTC v. Trudeau, No. 03-  
8 C-3904, 2007 U.S. Dist. LEXIS 85214, at \*11 (N.D. Ill. November 16, 2007) (J.  
9 Gettleman) (citing Stotler & Co. v. Able, 870 F.2d 1158, 1163 (7<sup>th</sup> Cir. 1989)). If a  
10 violation is shown, the defendant's intent is irrelevant. See SEC v. McNamee, 481  
11 F.3d 451, 455-56 (7<sup>th</sup> Cir. 2007) ("scienter is not required for civil contempt") (citing  
12 McComb v. Jacksonville Paper Co., 336 U.S. 187, 191 (1949)); American Family  
13 Mutual Ins. Co. v. Roth, No. 05-C-3839, 2008 U.S. Dist. LEXIS 3557, at \*7-8 (N.D.  
14 Ill. Jan. 15, 2008) (J. Guzman) ("an inadvertent violation does not preclude a  
15 contempt citation") (citing CFTC v. Premex, Inc., 655 F.2d 779, 785 n.11 (11<sup>th</sup> Cir.  
16 1981)); SEC v. Showalter, 227 F.Supp. 2d 110, 120 (D.D.C. 2002) ("[t]he  
17 defendant's intent regarding compliance with the order is irrelevant"); SEC v. Yun,  
18 208 F. Supp. 2d 1279, 1285 (M.D. Fla. 2002) (intent in failing to comply is  
19 irrelevant); SEC v. Bilzerian, 112 F. Supp. 2d 12, 16 (D.D.C. 2000) ("Bilzerian's  
20 intent is irrelevant; the Court need not find that his failure to comply with the orders  
21 was willful or intentional."). Moreover, unfamiliarity with the particulars of an order  
22 is not a defense to a charge of contempt. Perfect Fit, Inc. v. Acme Quilting Co., 646  
23 F.2d 800, 808 (2d Cir. 1981). A party may be held in civil contempt unless the  
24 defendant establishes that he or she has been "reasonably diligent and energetic in  
25 attempting to accomplish what was ordered." Goluba v. School District of Ripon, 45  
26 F.3d 1035, 1037 (7th Cir. 1995).

27 //

28

PAUL NGUYEN  
16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
(714) 360-7602

PAUL NGUYEN  
16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
(714) 360-7602

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**III. DEFENDANTS' CONTEMPTUOUS CONDUCT**

**A. Chase Bank USA, NA and Chase Home Finance LLC's conducts are in defiance of Court order.**

The Preliminary Injunction Order is clear. The Court ordered Chase Bank and Chase Home directly or indirectly from proceeding with the foreclosure and sale of Plaintiffs' residence. Despite the Order, Defendants continue to proceed with the foreclosure and sale of Plaintiffs' residence with the recent schedule of auction of Plaintiffs' residence on October 19, 2009 at 10:00 A.M. Multiple real estate brokers<sup>1</sup> visited Plaintiffs' residence purportedly represented the bank and asked to inspect Plaintiffs' residence. When questioned, these brokers told Plaintiffs that the property was scheduled for auction on October 19, 2009. Furthermore, they informed me that the foreclosure sale information can be obtained from First American Loanstar Trustee Services. I contacted Defendant First American Loanstar Trustee Services via telephone at (530) 672-3033. The automated information system indicated that the auction of Plaintiffs' residence is postponed until December 3, 2009 at the request of beneficiary. In addition, the electronic messaging directed me to the company website located at <http://www.loanstartrustee.com> for further information. A copy of the scheduled foreclosure sale of Plaintiff is December 3, 2009 at 10:00 AM is attached herewith as Exhibit 2.

"The ability to punish disobedience to judicial orders is regarded as essential to ensuring that the Judiciary has a means to vindicate its own authority without complete dependence on other Branches." Grove Fresh Dist., Inc. v. John Labart Ltd, 888 F.Supp. 1427, 1435 (N.D. Ill. 1995), aff'd 134 F.3d 374 (7<sup>th</sup> Cir.), cert. denied 525 U.S. 877 (1998) (quoting Young v. United States ex rel Vuitton et Fils S.A., 481 U.S. 787, 796 (1987)). "To win a motion for civil contempt, a party must prove by clear and convincing evidence that the opposing party violated a court order." See

<sup>1</sup> Copy of business card provided to Plaintiffs by these brokers is attached herewith as Exhibit 1.

PAUL NGUYEN  
16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
(714) 360-7602

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Goluba v. School Dist of Ripon, 45 F.3d 1035, 1037 (7<sup>th</sup> Cir. 1995) (Citation and quotation omitted). The evidence submitted in support of this Motion more than satisfies this standard.

Defendants unquestionably are in violation of the clear terms of the Preliminary Injunction Order. Defendants unquestionably have the ability to comply with the Preliminary Injunction Order by removing the auction from public publication and requesting Defendant First American Trustee Services ceasing the foreclosure and sale of Plaintiffs’ residence. Defendant First American Trustee Services is a party to this action and currently in default. To date, this Defendant made no answer or attempt to answer to Plaintiffs’ complaint.

These Defendants’ action in total disregard of the laws is not new. This action is the result of Defendants’ total disregard of Plaintiffs’ valid notice of rescission of the loan and the offer to tender by Plaintiffs. Instead, these Defendants chose to foreclose and auction Plaintiffs’ residence.

“A district court has broad discretion to fashion an appropriate coercive remedy in a case of civil contempt, based on the nature of the harm and the probable effect of alternative sanctions.” Cannon v. Loyola Univ. of Chicago, 676 F.Supp. 823, 828 (N.D. Ill. 1987) (Aspen, J) (Citing N.A. Sales Co. v. Chapman Indus., 736 F.2d 854, 857 (2d Cir. 1984) and United States v. United Mine Workers, 330 U.S. 258, 303-04 (1947)), order vacated in part on other grounds, 687 F.Supp. 424 (N.D. Ill. 1988).

Until such time that Defendants can prove to the Court that their action to foreclose and sale of Plaintiffs’ residence has stopped; Plaintiffs request the Court order the imposition of daily fines against these Defendants. See United States v. United Mine Workers, 330 U.S. 258, 303-04 (1947) (civil contempt may be employed to coerce compliance with court’s order); Guess v. Chang, 912 F. Supp. 372, 378 (N.D. Ill. 1995) (daily fine imposed; defendant “obviously had the ability to

PAUL NGUYEN  
16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
(714) 360-7602

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

comply with this portion of the turnover order, and could have completely avoided the fine had he made the materials available to Guess? By [the deadline]”); accord W. Schwarzer, et al., Federal Civil Procedure Before Trial, ¶ 13:252 (Rutter 2001) (“Monetary sanctions may also be imposed to coerce future compliance (e.g., a fine of \$5,000 a day until defendant complies)).

**B. Defendant First American Trustee Services should be found in contempt of this Court valid order.**

Under Fed. R. Civ. P. 65, injunctions apply not only to the defendants, but also to those who have notice of the Order and are in “active concert or participation” with them. See Regal Knitwear Co. v. NLRB, 324 U.S. 9, 14 (1945); SEC v. Homa, Nos. 06-3320 & 07-1590, 2008 U.S. App. LEXIS 1337, at \*35-37 (7<sup>th</sup> Cir. Jan. 24, 2008); Stotler v. Able, 870 F.2d 1158, 1164 (7<sup>th</sup> Cir. 1989); FTC v. Productive Mktg., Inc., 136 F. Supp. 2d 1096, 1104 (C.D. Cal. 2001). Moreover, notice to a non-party does not require that the non-party be formally served with the injunction. “All that is required is that the aider and abettor be given ‘fair notice that acting in concert with the named defendants would subject them to contempt proceedings.’” Select Creations, Inc. v. Paliafito America, Inc., 852 F. Supp. 740, 779 (E.D. Wis. 1994) (quoting New York State National Org. for Women v. Terry, 961 F.2d 390, 398 (2d Cir. 1992), vacated on other grounds, 113 S. Ct. 1233 (1993)). “Indeed, if courts did not have the power to punish those who cooperate with those named in an injunction, the named parties could easily thwart the injunction by operating through others.” SEC v. Homa, 2008 U.S. App. LEXIS 1337, at \*35 (7<sup>th</sup> Cir. Jan. 24, 2008).

Similarly, First American Trustee Services should be held in contempt, for acting in active concert or participation with Chase Bank and Chase Home defendants. First American Trustee Services was fully informed as they have been involved in every aspect of foreclosure and sale of Plaintiffs’ residence, and also has prepared the legal documents as the substituted trustee in the forged Deed of Trust.

1 Thus, First American Trustee Services participation has been essential to the  
2 compliance of court order and it should be found in contempt.

3 Plaintiffs seek a fine of \$3,000.00 a day, payable to the Court by each  
4 Defendant. This amount is not unreasonable under the circumstances. Fining these  
5 Defendants may effectuate compliance with the Preliminary Injunction Order.

6 **IV. PLAINTIFFS ARE ENTITLED TO THEIR COSTS INCURRED IN**  
7 **CONNECTION WITH THIS CONTEMPT PROCEEDING.**

8 In a civil contempt proceeding, “a court may, at its discretion, order  
9 reimbursement to the complainant, as part of the civil relief, of the party’s fees and  
10 expenses incurred in bringing the violation to the court’s attention.” South Suburban  
11 Housing Center v. Berry 186 F.3d 851, 855 (7<sup>th</sup> Cir. 1999) (quoting Commodity  
12 Futures Trading Commision v. Premex, Inc., 655 F.2d 779, 785 (7<sup>th</sup> Cir. 1981)).  
13 “[A]n award of expenses and fees in civil contempt proceedings is proper and is  
14 independent of any award of compensatory damages.” Commodity Futures Trading  
15 Commision v. Premex, Inc., 655 F.2d 779, 785-786 (7<sup>th</sup> Cir. 1981) (citations  
16 omitted). Plaintiffs seek an award of fees and costs incurred as a result of this  
17 contempt proceeding. See Grove Fresh Dist., Inc. v. John Labart Ltd., 888 F.Supp.  
18 1427, 1435 (N.D. Ill. 1995) aff’d 134 F.3d 374 (7<sup>th</sup> Cir.), cert. denied, 525 U.S. 877  
19 (1998) (contempt sanctions may include “awarding attorney’s fees and costs for  
20 preparing and prosecuting a contempt petition, and such fees including factors such  
21 as overhead and support personnel”).

22 //  
23 //  
24 //  
25 //  
26 //  
27 //

PAUL NGUYEN  
16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
(714) 360-7602

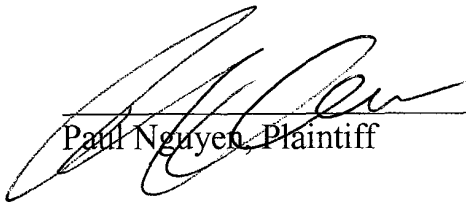


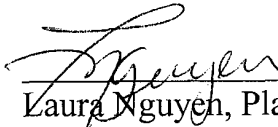
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**WHEREFORE**, for the reasons discussed herein, plaintiffs respectfully requests that the Court enter an order to show cause (1) why Defendants Chase Bank USA, NA, Chase Home Finance LLC and First American Loanstar Trustee Services (collectively referred to herein as "Defendants") should not be held in contempt of the Temporary Restraining Order and Preliminary Injunction Order; (2) why Defendants should not be order to compensation Plaintiffs for their costs in connection with this proceeding, an award of compensatory damages; and (3) why Defendants should not be order to pay daily fines.

DATED: October 19, 2009

Respectfully Submitted;

  
\_\_\_\_\_  
Paul Nguyen, Plaintiff

  
\_\_\_\_\_  
Laura Nguyen, Plaintiff

PAUL NGUYEN  
16141 QUARTZ STREET  
WESTMINSTER, CA 92683  
(714) 360-7602

# EXHIBIT 1



17767 Santiago Blvd., Suite 610 • Villa Park, CA 92861

**Gerald Grosso, CRB, GRI**  
**REALTOR®**

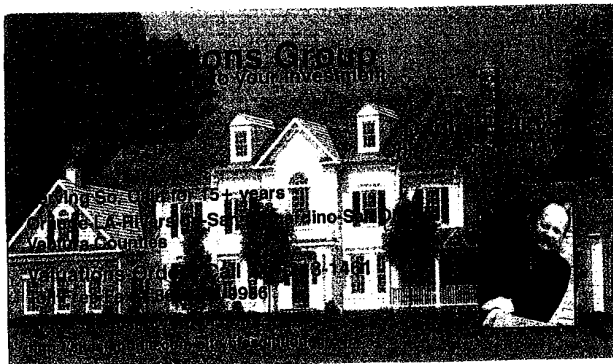
DRE License #0029965

Cell: (714) 396-5514

Fax: (714) 921-1002

Office: (714) 637-3700

Home: (714) 921-9576



---

---

**Ted Lacy**

(760) 728-1000

# EXHIBIT 2

[Loan Start Trustee Services](#)

[Understanding Foreclosure](#)

[Print this Page](#)

[Avoiding Foreclosure](#)

## Foreclosure Sale Detail

[Foreclosure Sales](#)

[Return to Results Page](#)

[My Property List](#)

TS #: 20099019201403

[Add Property to List](#)

[Borrower Login](#)

**Property Address:**

16141 QUARTZ ST, WESTMINSTER, CA 926830000, ORANGE

[FAQs](#)

**Foreclosure Sales Information:**

**Sale Date:** 12/3/2009

[About Us](#)

**Sale Time:** 10:00 AM

**Status:** Publication

[Contact Us](#)

**Post and  
Pub Vendor:** 530-672-3033

**Location:** IN THE FRONT OF THE FLAGPOLES AT THE MAIN ENTRY AREA TO THE PLACENTIA CIVIC CENTER, 401-411 E. CHAPMAN AVE, PLACENTIA, CA

**Property Map:**



[<< Previous](#) / [Next >>](#)

[Return to Results Page](#)

First American LoanStar Trustee Services LLC or First American Title Insurance Company may be acting as a debt collector attempting to collect a debt. Any information provided by you may be used for that purpose.

First American LoanStar Trustee Services LLC was formerly known as LoanStar Mortgagee Services, LLC.

[Legal Notices](#) | [Privacy](#) | [Copyright](#) © 2009 The First American Corporation

[First American Trustee Services](#)

[Understanding Foreclosure](#)

[Print this Page](#)

[Avoiding Foreclosure](#)

## Borrower Loan Results With Current Pay-off

[Foreclosure Sales](#)

**TS #:** 20099019201403

[My Property List](#)

**Borrower Name:** PAUL NGUYEN

**Property Address:** 16141 QUARTZ ST  
WESTMINSTER, CA 926830000

[Borrower Login](#)

**Lender Information:** CHASE SAN DIEGO

**Loan #:** 24826570

[FAQs](#)

**Critical Dates on Foreclosure:**

[Help Us](#)

**Notice of Default:**

**Redemption End Date:**

[Contact Us](#)

**First Publication:** 6/23/2009

**Sales Date:** 12/3/2009

**Pay-Off Amount:** -

**Reinstatement Amount:** -

**Good Through Date:**

By clicking the submit request below you are able to request updated quotes with new reinstatement and pay-off amounts.

First American LoanStar Trustee Services LLC or First American Title Insurance Company may be acting as a debt collector attempting to collect a debt. Any information provided by you may be used for that purpose.

First American LoanStar Trustee Services LLC was formerly known as LoanStar Mortgagee Services, LLC.

[Legal Notices](#) | [Privacy](#) | [Copyright](#) © 2008 The First American Corporation

**PROOF OF SERVICE**

I am a citizen of the United States; I am over 18 years of age; my business address is 9353 Bolsa Ave, #L4, Westminster, California 92683. I am employed in the County of Orange where this mailing occurred.

On 10/20/2009, I served the following document(s):

1. Notice of Motion and Motion for order to show cause why Defendants Chase Bank USA, NA, Chase Home Finance LLC and First American Loanstar Trustee Services should not be held in contempt.

by placing a true copy thereof enclosed in a sealed envelope and served in the manner described below to each of the parties herein and addressed as follows:

ADORNO YOSS ALVARADO & SMITH  
Attention S. Christopher Yoo  
1 MacArthur Place, Suite 200  
Santa Ana, CA 92707

First American Loanstar Trustee Services  
Attention: Timothy P. Sullivan  
1 First American Way  
Santa Ana, CA 92707

XX **BY MAIL:** I caused such envelope(s) to be deposited in the mail at my business address, addressed to the addressee(s) designated.. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

\_\_\_ **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the addressee(s) designated.

\_\_\_ **BY FEDERAL EXPRESS:** I caused such envelope(s) to be delivered via Federal Express to the addressee(s) designated.

\_\_\_ **BY FACSIMILE:** I caused said documents(s) to be transmitted to the telephone number(s) of the addressee(s) designated.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Westminster, California, on 10/20/2009

  
\_\_\_\_\_  
HIEN LAM