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7 Attorneys for Defendants
JPMORGAN CHASE BANK, N.A., FOR ITSELF AND AS AN
8 ACQUIRER OF CERTAIN ASSETS AND LIABILITIES OF
WASHINGTON MUTUAL BANK FROM THE FDIC ACTING
9 AS RECEIVER, erroneously sued as JP MORGAN BANK; and
CALIFORNIA RECONVEYANCE COMPANY

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12
13 KAVEH KHAIST,
14 Plaintiff,

15 v.

16 WASHINGTON MUTUAL BANK; JP
17 MORGAN BANK; CALIFORNIA
18 RECONVEYANCE COMPANY,
19 Defendants.

CASE NO.: 10-CV-2168-IEG (JMA)

JUDGE: Hon. Irma E. Gonzalez

**PRELIMINARY OPPOSITION TO
ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION;
REQUEST TO CONTINUE HEARING
FOR 21 DAYS; DECLARATION OF
JOHN M. SORICH**

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21 **TO ALL PARTIES AND COUNSEL OF RECORD:**

22 Defendants JPMorgan Chase Bank, N.A., for itself and as an acquirer of certain assets and
23 liabilities of Washington Mutual Bank from the Federal Deposit Insurance Corporation acting as
24 receiver ("Chase") and California Reconveyance Company ("CRC" and collectively "Defendants"),
25 submit the following Preliminary Opposition to the Court's October 26, 2010 Order ("Order")
26 regarding the request of plaintiff Kaveh Khast ("Plaintiff") for a preliminary injunction to enjoin
27 foreclosure proceedings on the property located at 7234 Encelia Drive, La Jolla, California 92037
28 ("Subject Property").

MEMORANDUM OF POINTS AND AUTHORITIES

I. DEFENDANTS REQUEST A POSTPONEMENT OF THE HEARING ON THE MOTION FOR 21 DAYS

A preliminary injunction can issue only when certain criteria are met. The requirements are: (1) the likelihood that plaintiff will prevail on the merits at trial; (2) substantial threat that plaintiff will suffer irreparable injury if the injunction is denied, (3) the threatened injury outweighs any damage the injunction might cause to defendant; and (4) the injunction will not disserve the public interest. *Amoco Production Co. v. Village of Gambell, Alaska*, 480 US 531, 542 (1987).

Defendants require additional time to respond more thoroughly to the Order and, in particular, to the Plaintiff's request for a preliminary injunction, because this matter was received by the legal department at Chase only recently and was forwarded Defendants' counsel only today. Specifically, it appears that the Order was served on Chase October 26, 2010 at Chase's Rancho Bernardo (San Diego) offices. Thereafter, the Order was forwarded to Chase's legal department on the East Coast and then forwarded to attorney John Sorich today, November 3, 2010. Consequently, Defendants' counsel has not had an opportunity to investigate Plaintiff's allegations. *See*, Declaration of John M. Sorich ("Sorich Dec.").

Accordingly, Defendants request a postponement of the hearing on the request for a preliminary injunction for 21 days in order to allow them time to investigate Plaintiff's claims and to prepare a competent response thereto. No prejudice will result to Plaintiff by continuing the hearing because foreclosure proceedings have been put on hold and further more the Order prohibits continued foreclosure proceedings at this time.

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1 **II. CONCLUSION**

2 For the foregoing reasons, Defendants respectfully requests that the Court postpone the
3 hearing on the Motion for 21 days.

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5 DATED: November 3, 2010

ADORNO YOSS ALVARADO & SMITH
A Professional Corporation

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7 By: /s/ S. Christopher Yoo

8 JOHN M. SORICH
9 S. CHRISTOPHER YOO
10 Attorneys for Defendants
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15 FDIC ACTING AS RECEIVER, erroneously
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ADORNO YOSS ALVARADO & SMITH
ATTORNEYS AT LAW
SANTA ANA

DECLARATION OF JOHN M. SORICH

I, John M. Sorich, declare as follows:

1. I am a member of the law firm of Adorno, Yoss, Alvarado & Smith, a Professional Corporation, attorneys of record herein for defendants JPMorgan Chase Bank, N.A., for itself and as an acquirer of certain assets and liabilities of Washington Mutual Bank from the Federal Deposit Insurance Corporation acting as receiver ("JPMorgan") and California Reconveyance Company ("CRC" and collectively "Defendants"). I am duly admitted to practice law in the State of California. If called as a witness in this action, I am competent to testify of my own personal knowledge, to the best of my recollection, as to the matters set forth in this Declaration.

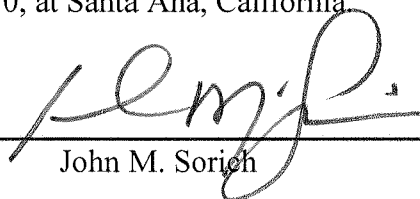
2. I submit this declaration in response to the Court's October 26, 2010 Order Granting Plaintiff's Motion for a Temporary Restraining Order ("Order") and to the request by plaintiff Kaveh Khast for a preliminary injunction concerning the property located at 7234 Encelia Drive, La Jolla, California 92037 ("Subject Property")

3. My office received the referral of the above-captioned matter from the legal department of JPMorgan Chase Bank, N.A., ("Chase") today, November 3, 2010. It is my understanding that the Order was served on Chase's Rancho Bernardo, California offices on October 26, 2010, and thereafter forwarded to Chase's legal department on the East Coast.

4. The Order requires Defendants to file a response to the Order and Plaintiff's request for a preliminary injunction by today, November 3, 2010, the same day my office was retained. I have not had an opportunity to investigate the Plaintiff's claims and therefore do not have sufficient time to prepare a competent and thorough response to the Order and Plaintiff's request for a preliminary injunction.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 3rd day of November, 2010, at Santa Ana, California


John M. Sorich

ADORNO YOSS ALVARADO & SMITH
ATTORNEYS AT LAW
SANTA ANA