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1 Case No. 03CV0055
2 Dept. II

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MAR 11
DOUGLAS COUNTY,
DISTRICT COURT

BARBARA REED
CLERK
B. PHENIX
PROPERTY

6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF DOUGLAS

9 MERRILL CONSTRUCTION, INC., a
10 Nevada corporation,

11 Plaintiff,

TEMPORARY RESTRAINING
ORDER

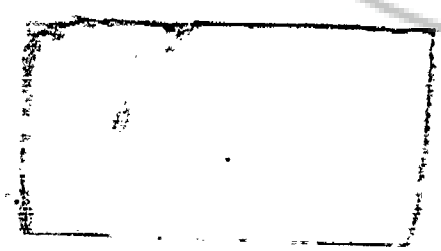
12 v.

13 WELLS FARGO HOME MORTGAGE, INC., a
14 California corporation; WELLS FARGO
15 BANK, N.A., an unknown business
16 form; MTC FINANCIAL INC., dba
17 TRUSTEE CORPS, a corporation; and
18 DOES I through XX, inclusive,

19 Defendants.

18 This Court, having reviewed the Verified Complaint on file
19 herein, the *Ex Parte* Application for Temporary Restraining Order and
20 Motion for Preliminary Injunction, as well as the supporting affidavits,
21 the Court finds that notice of the Application for Temporary Restraining
22 Order is not practical and the restraining order may issue *ex parte*;
23 that Plaintiff is entitled to the relief requested as Plaintiff has a
24 reasonable likelihood of success on the merits of its claims and has no
25 adequate remedy at law; that this is a proper instance for the issuance
26 of a temporary restraining order in that, unless Defendants are
27 restrained and enjoined by order of this Court from foreclosing on their
28 deed of trust without establishing the priority interest of Plaintiff's

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1 mechanic's lien, Plaintiff will suffer immediate and irreparable loss or
2 damage unless such foreclose upon private sale is not enjoined through
3 extinguishment of said lien. The Court further finds that the damages
4 to Defendants can be calculated with reasonable certainty and security
5 will be ordered as appropriate. On the basis of the foregoing and good
6 cause appearing,

7

8 **NOW, THEREFORE, IT IS HEREBY ORDERED** as follows:

9 1. Defendant WELLS FARGO HOME MORTGAGE, INC. and its agent
10 trustee, MTC FINANCIAL INC., dba TRUSTEE CORPS, are hereby restrained
11 and enjoined from proceeding with or conducting the foreclosure upon
12 private sale upon real property as previously noticed for March 19, 2003
13 at 1:00 p.m., and related to that deed of trust recorded on October 25,
14 2001, as Instrument No. 0526309, in Book 1001, at Page 8982 of the
15 Official Records in the Office of the Recorder of Douglas County,
16 Nevada, executed by Julie Hammond and Mitchell S. Hammond Sr., wife and
17 husband as trustors, Wells Fargo Home Mortgage, Inc. as beneficiary, and
18 pertaining to the real property situate in the County of Douglas, State
19 of Nevada, described as follows:

20 Lot 84 of Block D as said Lot and Block are set
21 forth on the Final Map #PD99-02-04 for SARATOGA
22 SPRINGS ESTATES UNIT 4, A Planned Unit
23 Development, recorded May 19, 2000 in Book 0500
24 of Official Records, Page 4445, Douglas County,
25 Nevada as Document No. 492337, and amended by
26 Certificate of Amendment Recorded November 30,
27 2000, in Book 1100, Page 6042, as Document No.
28 504169, Official Records.

25 APN 1420-28-310-017

26 **IT IS FURTHER ORDERED** that a hearing shall be set for
27 determination of whether a preliminary injunction should be issued,
28 which hearing is hereby set at the above-entitled Court located at 1625

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1 Eighth Street, Minden, Nevada, at 2:00 a.m./p.m. on the 19th day of
2 March, 2003.

3 **IT IS FURTHER ORDERED** that Plaintiff shall serve a copy of the
4 moving papers of this motion and this order on Defendant MTC FINANCIAL
5 INC., dba TRUSTEE CORPS, by certified mail to the following address
6 within one (1) court day of the date of this order:

7 TRUSTEE CORPS
8 2112 Business Center Dr.
9 2nd Floor - Suite 201
Irvine CA 92612

10 **IT IS FURTHER ORDERED** that Plaintiff shall serve a copy of the
11 moving papers of this motion and this order on Defendant WELLS FARGO
12 HOME MORTGAGE, INC. by personal service at the following address within
13 two (2) court days of the date of this order:

14 Steffani McCullough
15 Wells Fargo Home Mortgage, Inc.
16 1542 Hwy. 395
Gardnerville NV 89410

17 **IT IS FURTHER ORDERED** that Plaintiff may record a copy of this
18 Order prior to the date of March 19, 2003.

19 **IT IS FURTHER ORDERED** that this Order shall issue immediately
20 upon Plaintiff posting security in the amount of \$ 1,000.00 with
21 the Clerk of this Court pursuant to NRCP 65(c).

22 DATED this 13th day of March, 2003.

23 *Michael P. [Signature]*
24 DISTRICT COURT JUDGE

25 SUBMITTED BY

26 *[Signature]*
27 Kelly R. Chase
28 P.O. Box 2800
Minden NV 89423
(775) 782-3099
Attorney for Plaintiff
MERRILL CONSTRUCTION, INC.

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CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: March 13, 2003

Clerk of the 5th Judicial District Court
of the State of Nevada, in and for the County of Douglas,

By [Signature] **SEAL** Deputy

REQUESTED BY
Kelly R Chase
IN OFFICIAL RECORDS OF
DOUGLAS CO. NEVADA

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WERNER CHRISTEN
RECORDER

\$ 17.00 PAID Kg DEPUTY

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