

Judge refuses to move foreclosure firm's trial

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SANTA CRUZ — A Superior Court judge today denied a change of venue request by the state's largest home mortgage foreclosure company, which has been sued by the district attorney's office for unfair business practices.

Being sued is T.D. Service Co. of Walnut Creek and Orange.

In a lawsuit filed in June, Assistant District Attorney Don Gartner claimed the company receives kickbacks in the form of "referral fees" for handling foreclosures on home mortgages that have fallen into default.

Gartner has claimed these fees are paid to lending institutions, such as banks and savings and loan companies, title insurance companies and other firms that act as trustees of homes.

And, he has said the fees are hidden from the homeowner who tries to make good on his or her mortgage.

T.D. Service is the state's largest home-mortgage foreclosure company. The company contracts with other institutions to handle the intricate and often time-consuming process of foreclosing on a home loan.

In an hour-long hearing before Judge Donald May, the firm's attorney, John Hosack, argued that impartial jurors would be difficult to find.

This is because the case has the potential of bringing some \$125 million in penalty fees to the county if the allegations are proven and the jury agrees with the district attorney's office on the amount of penalties and fines to be assessed, he said.

Hosack said T.D. Service Co. handled some 50,000 foreclosures on home mortgages statewide in the 1½-year period covered by the lawsuit.

Gartner's suit is seeking \$2,500 for each violation proven, and, as Hosack said, his estimation is "We're talking about a staggering amount of money."

The district attorney's investigation to date has shown about 220 foreclosures in this county were handled by T.D. Service Co., but the suit is being brought by the office on behalf of the people of the state. Thus, the potential number of violations extends beyond the county boundaries.

In a separate lawsuit, a private attorney in San Francisco has filed a class-action lawsuit

against T.D. Service Co., also alleging illegal business practices and kickbacks.

Gartner said, "I have the sense that people in the industry are watching the case." He also said at this point, the district attorney's office is "considering naming as defendants (in the lawsuit) several lending institutions which do business in Santa Cruz County and who refer foreclosures to T.D. for processing, apparently in exchange for receiving kickbacks."

At this point, Gartner declined to name the lending institutions, but said the kinds of fees they are charging homeowners who are trying to make good on their loans runs in the thousands of dollars.

In one case, he said a fee of \$1,400 was charged a homeowner who was delinquent on a \$5,000 loan.

Judge May, in denying the change of venue request, said the company has a right at a later date to renew the motion.

He told Hosack the motion could be brought up when jurors are selected — probably not for years yet — if it is found that jurors are prejudiced by the idea of getting money from the company.

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