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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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Issam Mansour, an individual, )

No. CV-09-37-PHX-DGC

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Plaintiff, )

**ORDER**

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vs. )

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Cal-Western Reconveyance Corp.; )

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Mortgage Electronic Registration )

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Systems, Inc.; and Aurora Loan Services, )

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LLC, )

Defendants. )

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Plaintiff filed a complaint against Defendants in state court on December 12, 2008.

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Dkt. #1-2 at 5-18. The complaint asserts violations of various federal statutes in connection

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with a mortgage loan and foreclosure proceedings. *Id.* The case has been removed to this

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Court. Dkt. #1.

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Defendants Mortgage Electronic Registration Systems, Inc. and Aurora Loan

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Services, LLC have filed a motion to dismiss. Dkt. #8. Defendant Cal-Western

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Reconveyance Corporation has joined the motion. Dkt. #9. Plaintiff has filed a motion for

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leave to amend the complaint. Dkt. #12. Plaintiff agrees to voluntarily dismiss the RICO

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claim and concedes that some of the other claims could be amended to comport with federal

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law. *Id.* Plaintiff requests leave to provide a more definite statement of his claims. *Id.*

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Under Rule 15 of the Federal Rules of Civil Procedure, a party may amend his

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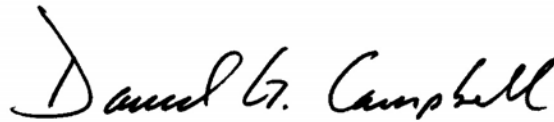
pleading “once as a matter of course at any time before a responsive pleading is served[.]”

1 Fed. R. Civ. P. 15(a). Because a motion to dismiss is not a “responsive pleading” within the  
2 meaning of the rule, *see Schreiber Distrib. Co. v. Serv-Well Furniture Co.*, 806 F.2d 1393,  
3 1401 (9th Cir. 1986), Plaintiff does not need leave of Court to file his proposed amended  
4 complaint. *See* Dkt. #13. The Clerk will be directed to file the lodged proposed amended  
5 complaint. In light of the filing of the amended complaint, the motion to dismiss the original  
6 complaint will be denied as moot.

7 **IT IS ORDERED:**

- 8 1. Plaintiff’s motion for leave to amend complaint (Dkt. #12) is **denied** as moot.  
9 2. The Clerk is directed to filed the proposed lodged amended complaint  
10 (Dkt. #13).  
11 3. The motion to dismiss the original complaint (Dkt. #8) is **denied** as moot.

12 DATED this 6th day of February, 2009.

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David G. Campbell  
United States District Judge