

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES - GENERAL

Case No.	2:14-cv-01339-CAS(CWx)	Date	May 13, 2014
Title	RICHARD P. DAGRES V. COUNTRYWIDE BANK, N.A. ET AL.		

Present: The Honorable **CHRISTINA A. SNYDER**

Catherine Jeang	Not Present	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiff:	Attorneys Present for Defendants	
Not Present	Not Present	

Proceedings: (In chambers:) ORDER RE: AMENDED PLEADINGS (dkt. 33, filed April 16, 2014)

Plaintiff Richard Dagnes, proceeding pro se, filed this case in this Court on February 21, 2014, against defendants Bank of America, N.A. (“BOA”), Deutsche Bank National Trust Company (“Deutsche Bank”), Greenwich Capital Financial Products, Inc. (“GFCP”), Greenwich Capital Acceptance, Inc. (“GCA”), Countrywide Home Loan Servicing LP (“Countrywide”), MERSCORP Inc. (“MERS”), Nationstar Mortgage (“Nationstar”), ReconTrust Company N.A. (“ReconTrust”), and Does 1 through 20, inclusive. Plaintiff asserts claims for (1) lack of standing to foreclose, (2) fraud in the concealment, (3) fraud in the inducement, (4) intentional infliction of emotional distress (“IIED”), (5) quiet title, (6) slander of title, (7) declaratory relief, (8) violation of the Truth in Lending Act (“TILA”), 15 U.S.C. § 1601, (9) violation of the Real Estate Settlement Procedures Act (“RESPA”), 12 U.S.C. § 2601, (10) rescission, and (11) “beyond the statute of limitations.” Dkt. 1.

On February 25, 2014, plaintiff filed an “amended complaint,” purporting to assert a “Twelfth Cause of Action – Defective Notice of Default.” Dkt. 9. It appears that plaintiff intended this amended complaint to supplement his original complaint, rather than stand alone as a new operative pleading.

On March 17, 2014, defendants GFCP and GCA moved to dismiss this claim as to them. Dkt. 26. Plaintiff failed to file an opposition. Based on plaintiff’s non-opposition, the Court granted GFCP and GCA’s motion without prejudice on April 21, 2014. Dkt. 36. The Court gave plaintiff leave to file an amended complaint on or before May 19, 2014. *Id.*

On April 16, 2014, defendants Countrywide, Deutsche Bank, MERS, Nationstar, and ReconTrust filed a motion to dismiss. Dkt. 33. This motion to dismiss treats the

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amended complaint as the operative pleading, and therefore only discusses plaintiff's "Twelfth Cause of Action – Defective Notice of Default." On May 9, 2014, plaintiff filed an untimely opposition. Dkt. 37. Among other things, plaintiff's opposition asserts that he intended the amended complaint to supplement the operative complaint, and that defendants should therefore be required to respond to all of plaintiff's claims. Id. Plaintiff requests leave to file a new amended complaint consolidating his claims, as well as asserting new claims.

The Court finds that the following steps are necessary to ensure the orderly resolution of this case:

1. Plaintiff shall have leave to file a second amended complaint on or before **May 27, 2014**. This second amended complaint will be the operative complaint as to all defendants. Plaintiff may not assert any claims in this second amended complaint that he did not previously assert in his original complaint and amended complaint.

2. The hearing on the pending motion dismiss, currently scheduled for May 19, 2014, is hereby vacated. Upon plaintiff's filing of the second amended complaint, the pending motion to dismiss will be denied as moot. The moving defendants, as well as all other defendants, may then move to dismiss the second amended complaint.

3. Plaintiff is directed to review the Central District of California Local Rules, which are available online at <http://www.cacd.uscourts.gov/court-procedures/local-rules/>. The Court admonishes plaintiff to comply with all applicable local rules. In particular, the Court expects that plaintiff will file all oppositions no later than three weeks before the motion is set for hearing, as required by Local Rule 7-9. Future failures to file oppositions in a timely manner may result in those oppositions being stricken, the dismissal of this action, or other appropriate relief.

IT IS SO ORDERED.

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Initials of Preparer	CMJ			