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 5 SIERRA PACIFIC MORTGAGE COMPANY, INC.

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 8 UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 VINCENT SIPE,

12 Plaintiff,

13 v.

14 COUNTRYWIDE BANK; SIERRA
 15 PACIFIC MORTGAGE COMPANY,
 INC.; BANK OF MADERA COUNTY;
 16 COUNTRYWIDE DOCUMENT
 CUSTODY SERVICES, A DIVISION OF
 17 TREASURY BANK N.A.; MORTGAGE
 ELECTRONIC REGISTRATION
 SYSTEM, INC.; FINANCIAL
 18 ADVANTAGE, INC.; JOHN NORBERG;
 CAROL DESILVA; and Does 1-20,
 19 inclusive,

20 Defendants.

Case No. 1:09-CV-00798-OWW-DLB

**ASSIGNED FOR ALL PURPOSES TO U.S.
 DISTRICT JUDGE OLIVER W. WANGER,
 Department 3**

**ORDER ON DEFENDANTS' MOTIONS
 TO DISMISS PLAINTIFF'S FIRST
 AMENDED COMPLAINT**

Complaint Filed: May 4, 2009

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 23 The motions to dismiss of Defendants SIERRA PACIFIC MORTGAGE COMPANY,
 24 INC. ("Sierra Pacific"), COUNTRYWIDE BANK ("Countrywide"), and MORTGAGE
 25 ELECTRONIC REGISTRATION SYSTEM, INC. ("MERS") came on regularly for hearing on
 26 February 8, 2010 before the Honorable Oliver W. Wanger. Plaintiff appeared by and through
 27 Jonathan G. Stein of the Law Offices of Jonathan G. Stein, Elk Grove, California. Sierra Pacific
 28 appeared by and through Daniel L. Baxter of Wilke, Fleury, Hoffelt, Gould & Birney, LLP,

1 Sacramento, California. Countrywide and MERS appeared by and through Andrew W. Noble of
2 Severson and Werson, San Francisco, California.

3 After reviewing the paperwork submitted by the parties and hearing oral argument, the
4 Court issued its Memorandum Decision and Order (“Memorandum Decision”) granting the
5 Defendants’ respective motions to dismiss Plaintiff’s First Amended Complaint. That ruling is
6 recorded on the Court’s docket as CM/ECF Document No. 37, and the language of the
7 Memorandum Decision is incorporated into this Order as though fully set forth herein.

8 Based on the above, IT IS HEREBY ORDERED THAT:

9 1. Sierra Pacific’s motion to dismiss Plaintiff’s First Cause of Action for Violation of
10 the Truth In Lending Act is GRANTED, and that cause of action (both insofar as it advances
11 claims for damages and rescission) is DISMISSED *WITH LEAVE TO AMEND*.

12 2. Countrywide and Sierra Pacific’s respective motions to dismiss Plaintiff’s Second
13 Cause of Action for violation of the Rosenthal Fair Debt Collection Practices Act are GRANTED,
14 and that cause of action is DISMISSED *WITH LEAVE TO AMEND*.

15 3. Countrywide, MERS, and Sierra Pacific’s respective motions to dismiss Plaintiff’s
16 Third Cause of Action for Negligence are GRANTED, and that cause of action is DISMISSED
17 *WITH LEAVE TO AMEND*.

18 4. Countrywide and MERS’s motion to dismiss Plaintiff’s Fourth Cause of Action
19 for violation of the Real Estate Settlement Procedures Act is GRANTED, and that cause of action
20 as to Countrywide and MERS is DISMISSED *WITH LEAVE TO AMEND*.

21 5. Sierra Pacific’s motion to dismiss Plaintiff’s Fourth Cause of Action for violation
22 of the Real Estate Settlement Procedures Act is GRANTED, and that cause of action as to Sierra
23 Pacific is DISMISSED *WITHOUT LEAVE TO AMEND*.

24 6. Sierra Pacific’s motion to dismiss Plaintiff’s Fifth Cause of Action for breach of
25 fiduciary duty is GRANTED and that cause of action is DISMISSED *WITHOUT LEAVE TO*
26 *AMEND*.

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1 7. Countrywide, MERS, and Sierra Pacific's respective motions to dismiss Plaintiff's
2 Sixth Cause of Action for fraud are GRANTED, and that cause of action is DISMISSED *WITH*
3 LEAVE TO AMEND.

4 8. Countrywide, MERS, and Sierra Pacific's respective motions to dismiss Plaintiff's
5 Seventh Cause of Action for Violation of the Unfair Competition Law (California Business and
6 Professions Code section 17200 et seq.) are GRANTED, and that cause of action is DISMISSED
7 *WITH LEAVE TO AMEND*.

8 9. Sierra Pacific's motion to dismiss Plaintiff's Eighth Cause of Action for breach of
9 contract is GRANTED, and that cause of action is DISMISSED *WITH LEAVE TO AMEND*.

10 10. Sierra Pacific's motion to dismiss Plaintiff's Ninth Cause of Action for breach of
11 the implied covenant of good faith and fair dealing is GRANTED, that that cause of action is
12 DISMISSED *WITHOUT LEAVE TO AMEND*.

13 IT IS FURTHER ORDERED THAT, as to the causes of action for which amendment has
14 been permitted, Plaintiff shall have until March 18, 2010, inclusive, to file and serve his amended
15 complaint, if any. Defendants shall have thirty (30) days from the date of electronic service of
16 any such amended complaint to answer or otherwise respond to that complaint.

17 IT IS SO ORDERED.

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20 DATED: February 17, 2010

/s/ OLIVER W. WANGER
UNITED STATES DISTRICT COURT JUDGE