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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANEESH HASAN,  
  
Plaintiff,  
  
v.  
  
U.S. BANK, NA, *et al.*,  
  
Defendants.

1:10-cv-00862 OWW JLT  
  
MEMORANDUM DECISION AND  
ORDER RE UNOPPOSED MOTIONS  
TO DISMISS (DOC. 5), TO  
STRIKE (DOC. 6) AND TO  
EXPUNGE LIS PENDES (DOC. 7)

In December 2006, Plaintiff Aneesh Hasan obtained a loan in the amount of \$309,000.00, secured by a deed of trust encumbering real property in Bakersfield, California. Doc. 1-1 ("Compl.") ¶1; Doc. 8. Defendant's Request for Judicial Notice ("RJN"), Ex. A. Plaintiff defaulted on the loan, and Defendants proceeded to foreclose on the real property. RJN Exs. B (Notice of Default) & C (Notice of Trustee's Sale). Plaintiff, who is represented by Gary Patton, Esq., of the Prodigy Law Group in Irvine, California, filed this lawsuit on April 13, 2010, *see* Compl., and recorded a notice of *lis pendes*, RJN Ex. D. Plaintiff's complaint, which was removed from the Superior Court for the County of Kern, alleges (1) violations of California Business and

1 Professions Code Section 17200, et seq., ("UCL"); (2) fraud; (3)  
2 breach of the covenant of good faith and fair dealing; (4)  
3 conversion; (5) quiet title; (6) fraud in the inducement; (7)  
4 unfair business practices; (8) breach of fiduciary duty; (9)  
5 wrongful foreclosure; (10) civil conspiracy; (11) aiding and  
6 abetting; (12) unlawful joint venture; (13) injunctive relief;  
7 (14) rescission of loan contracts; (15) breach of contract; (16)  
8 and violations of the federal Real Estate Settlement Procedures  
9 Act ("RESPA") and Truth in Lending Act ("TILA").

11 Before the court for decision are Defendants motions: (a) to  
12 dismiss all of the claims in the Complaint, Doc. 5; (b) to strike  
13 the punitive damages prayer, Doc. 6; and (c) to expunge *lis*  
14 *pendes*, Doc. 7, all of which were filed on May 21, 2010 and set  
15 for hearing on July 26, 2010. Plaintiff's oppositions to these  
16 motions were due on July 12, 2010. See E.D.C.A. Local Rule  
17 230(c) (requiring opposition or statement of non-opposition to be  
18 filed not less than fourteen (14) days prior to the noticed  
19 hearing date). As of July 21, 2010, counsel had not filed any  
20 opposition or statement of non-opposition. Court staff left a  
21 voicemail message for Plaintiff's counsel on or about July 14,  
22 2010, reminding counsel of his obligation to file a statement of  
23 non-opposition if he did not intend to oppose the motions.  
24 Counsel never responded to that call.

27 "No party will be entitled to be heard in opposition to a  
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motion at oral arguments if opposition to the motion has not been timely filed by that party." *Id.* The motions to dismiss, strike, and expunge *lis pendes*, filed on behalf of all Defendants, are well-founded and unopposed. Accordingly, these motions are GRANTED.

Defendant shall file a form of order consistent with this decision within five (5) days of its electronic service.

SO ORDERED  
Dated: July 26, 2010

/s/ Oliver W. Wanger  
Oliver W. Wanger  
United States District Judge