IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

EDITH MANABAT,

Plaintiffs,

vs.

SIERRA PACIFIC MORTGAGE COMPANY, INC., et al.,

Defendants.
_____/

CASE NO. CV F 10-1018 LJO JLT

FURTHER ORDER ON DISMISSAL OF REMAINING DEFENDANTS

This Court's July 7, 2010 order ("July 7 order") dismissed without prejudice non-appearing defendants Sierra Pacific Mortgage Company, Inc. ("Sierra Pacific"), McMillan Tuscany, LLC ("McMillian"), NDEx West, LLC, and Priority Posting and Publication (collectively "non-appearing defendants") based on the disobedience by Peter Cabbiness ("Mr. Cabbiness"), plaintiff's counsel, of this Court's June 25, 2010 order ("June 25 order"). The June 25 order required Mr. Cabbiness to file papers, no later than July 1, 2010, to show cause why this Court should not dismiss the non-appearing defendants.

On July 2, 2010, Mr. Cabbiness untimely filed papers to oppose dismissal of Sierra Pacific and McMillin. In filing the papers, Mr. Cabbiness disobeyed Local Rule 133 to require compliance with this

Court's electronic filing procedures. As such, this Court issued the July 7 order without knowing of Mr. Cabbiness' untimely papers which did not come to this Court's attention until July 8, 2010.

The untimely papers reflect that Mr. Cabbiness seeks to pursue state law claims against only Sierra Pacific and McMillin. As such, the papers and record reflect no grounds for this Court's subject matter jurisdiction to further warrant dismissal of this action without prejudice against non-appearing defendants. Kern County Superior Court appears as the proper forum for plaintiff's remaining claims.

IT IS SO ORDERED.

Dated: July 8, 2010

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE