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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EDWARD GOMEZ,

1:10-cv-01463-LJO-SMS

Plaintiff,

**FINDINGS AND RECOMMENDATIONS
RE: DISMISSAL FOR LACK OF
PROSECUTION**

v.

WORLD SAVINGS BANK, FSB,
et al.,

(Doc. 34)

Defendants.

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This matter was set for hearing on January 11, 2012 at 10:00 a.m. in Courtroom No. 1 on the Eighth Floor before the Honorable Sandra M. Snyder, United States Magistrate Judge, pursuant to an order requiring plaintiff, Edward Gomez, to personally appear and show cause why this case should not be dismissed for lack of prosecution. The matter was actually called on the record in open court at 10:15 a.m. to afford plaintiff, Edward Gomez, additional time to appear. However, plaintiff, Edward Gomez, did not personally appear or otherwise contact the Court. Jillian A. Benbow of Pite Duncan, LLP, appeared telephonically on behalf of defendant, Cal Western Reconveyance Corporation.¹

¹ It should be noted that Fred J. Hickman, Esq., of Anglin, Flewelling, Rasmussen, Campbell & Trytten, LLP, did not appear as his clients, defendants, Wells Fargo Bank and Zinc Financial, LLC, were dismissed (Zinc Financial on October 6, 2010 (Doc. 14), and Wells Fargo Bank, N.A., on December 29, 2010 (Doc. 24)), and are deemed "TERMINATED" on the court docket.

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2 **FINDINGS**

3 On September 14, 2011, the assignment of this action to Senior U.S. District Judge Oliver
4 W. Wanger (OWW) was withdrawn due to his impending retirement on October 1, 2011, and the
5 action remained assigned only to the previously assigned U.S. Magistrate Judge, Dennis L. Beck
6 (DLB) (Doc. 27). The parties were ordered to affirmatively indicate whether they consent to or
7 decline the jurisdiction of the Magistrate Judge pursuant to 28 U.S.C. § 636(c), by completing
8 and filing the form attached thereto with the Clerk’s Office within thirty (30) days, or by October
9 14, 2011. The parties were warned that failure to timely comply with the order would result in an
10 Order to Show Cause and may result in sanctions.

11 On September 30, 2011, U.S. Magistrate Judge Dennis L. Beck (DLB) disqualified
12 himself from all further proceedings in this action, and the case was reassigned to U.S.
13 Magistrate Judge Sandra M. Snyder (SMS) (Doc. 28).

14 On November 17, 2011, the undersigned issued an Order to Show Cause for failure to file
15 a Consent or Decline form as previously ordered. The parties were directed to file a response
16 within ten (10) days, by November 27, 2011, or, alternatively, file the required Consent/Decline
17 form (Doc. 29).

18 On November 23, 2011, defendant, Wells Fargo Bank, N.A., filed a response and
19 explanation (Doc. 30), together with a consent form (Doc. 31).

20 On November 29, 2011, defendant, Cal-Western Reconveyance Corporation, filed a
21 response in the form of a declaration of non-monetary status (Doc. 33), together with a consent
22 form (Doc. 32).

23 Plaintiff, Edward Gomez, did not respond to the Court’s Order to Show Cause, has failed
24 to comply with court orders, has failed to personally appear in court as ordered, and has failed to
25 prosecute this action.

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1 **RECOMMENDATIONS**

2 Accordingly, the undersigned recommends that this entire action be dismissed for
3 plaintiff's failure to diligently prosecute this action.

4 These Findings and Recommendations are submitted to the Honorable Lawrence J.
5 O'Neill (LJO), the United States District Judge to whom this case has been assigned for this
6 purpose (Doc. 35), pursuant to the provisions of 28 U.S.C. § 636(b)(1). On or before **January**
7 **31, 2012**, plaintiff, Edward Gomez, may file written objections with the Court via the Clerk's
8 Office. The document should be captioned "Objections to Magistrate Judge's Findings and
9 Recommendations." Plaintiff, Edward Gomez, is advised that, by failing to file objections within
10 the specified time, he may waive the right to appeal the District Court's order. *Martinez v. Ylst*,
11 951 F.2d 1153 (9th Cir. 1991).

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14 IT IS SO ORDERED.

15 **Dated: January 18, 2012**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE