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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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10 IGOR SHAFIR,

11 Plaintiff,

12 v.

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15 AEGIS WHOLESALE CORP., et al.,

16
17 Defendants.
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CASE NO. 1:14-cv-00957---SKO

**ORDER DENYING AS MOOT
PLAINTIFF'S MOTION FOR
ALTERNATIVE SERVICE ON
DEFENDANT RBS ACCEPTANCE**

(Doc. 11)

**ORDER DENYING AS MOOT
DEFENDANTS' MOTION TO DISMISS
(Doc. 5)**

**ORDER RESETTING HEARING ON
MOTION TO REMAND
(Doc. 14)**

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24 Plaintiff Igor Shafir ("Plaintiff") filed this action on May 6, 2014, in the Fresno County
25 Superior Court against Defendants Aegis Wholesale Corporation ("Aegis"), Wells Fargo Bank,
26 N.A. ("Wells Fargo"), Select Portfolio Servicing, Inc. ("Select"), RBS Financial Products, Inc.
27 ("RBS Financial"), RBS Acceptance Inc. ("RBS Acceptance"), and Mortgage Electronic
28 Registration Systems, Inc. ("MERS"). Defendants Wells Fargo and Select removed the action

1 to this Court on June 18, 2014. (Doc. 1.) On June 25, 2014, Defendants MERS, Select, and
2 Wells Fargo filed a motion to dismiss Plaintiff's complaint, which is currently set to be heard on
3 September 3, 2014. (Doc. 5.)

4 On July 10, 2014, Plaintiff filed a motion to permit alternative service upon Defendant
5 RBS Acceptance. (Doc. 11.) On July 16, 2014, Plaintiff filed a First Amended Complaint
6 naming Defendant Reconstruct Company, N.A. ("Reconstruct") as an additional defendant.¹
7 (Doc. 13.) On July 17, 2014, Plaintiff filed a motion to remand. (Doc. 14.) On July 28, 2014,
8 MERS, Select, Wells Fargo, RBS Acceptance, and RBS Financial filed oppositions to Plaintiff's
9 motion to remand. (Docs. 17. 18.) Plaintiff's motion to remand is currently set to be heard on
10 August 11, 2014.

11 Plaintiff's motion to permit alternative service upon RBS Acceptance has been rendered
12 moot by the appearance of RBS Acceptance. Further, Federal Rule of Civil Procedure
13 15(a)(1)(B) provides that a party may amend its pleading once as a matter of course within 21
14 days after service of a motion pursuant to Rule 12(b). Defendants Wells Fargo, Select, and
15 MERS filed a motion to dismiss Plaintiff's original complaint on June 25, 2014, before Plaintiff
16 filed a First Amended Complaint on July 16, 2014. (Doc. 13.) As such, Defendants' motion to
17 dismiss the original complaint has been rendered moot.

18 Plaintiff's motion to remand is currently set to be heard on August 11, 2014. However,
19 Defendant Reconstruct has not yet appeared in the litigation, and a case management conference
20 is currently set for August 21, 2014. All parties except Defendant Reconstruct have consented to
21 the jurisdiction of the U.S. Magistrate Judge. To provide time for Defendant Reconstruct to be
22 served and to appear in the litigation, the motion to remand shall be continued to September 3,
23 2014.

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¹ Aegis was not named in the first Amended Complaint.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. Plaintiff's motion for alternative service of RBS Acceptance is DENIED AS
3 MOOT;
- 4 2. Defendants Wells Fargo, Select, and MERS' motion to dismiss Plaintiff's original
5 complaint is DENIED AS MOOT;
- 6 3. Plaintiff's Motion to Remand is CONTINUED to September 3, 2014, at 9:30
7 a.m.; and
- 8 4. The case management conference set for August 21, 2014, at 4:30 p.m. shall
9 remain on calendar and telephonic appearances for this conference are
10 *approved and encouraged.*²

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13 IT IS SO ORDERED.

14 Dated: August 1, 2014

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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² All parties wishing to appear telephonically shall coordinate one conference call to the Court at the date and time for the conference at (559) 499-5790.