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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KIT P. JORY,

Plaintiff,

v.

CALIBER HOME LOANS, INC.;
SUMMIT MANAGEMENT COMPANY,
LLC; DOES 1-20 inclusive,

Defendants.

No. 1:16-cv-00941-DAD-MJS

ORDER TO SHOW CAUSE WHY
SANCTIONS SHOULD NOT BE IMPOSED

(Doc. No. 20)

Defendants Caliber Home Loans, Inc. and Summit Management Company removed this action from Stanislaus Superior Court of California on June 26, 2016. (Doc. No. 1.) The court subsequently scheduled a hearing for September 6, 2016 on a motion to dismiss brought by defendant Bank of America, N.A. (Doc. No. 7) and motion to remand brought by plaintiff (Doc. No. 9). (See Doc. Nos. 10 and 14.) On the morning of the scheduled hearing plaintiff’s counsel informed the court via email that the parties had reached a global settlement in the matter. However, at the scheduled hearing that same day – at which plaintiff’s counsel did not appear – defendant Bank of America’s counsel David Pinch appeared and informed the court that although defendant had previously made a settlement offer to plaintiff, the parties had not in fact reached a settlement. Accordingly, the court continued the motions hearing to October 6, 2016. (Doc. No. 18.) On September 8, 2016, plaintiff filed a notice of conditional settlement of the entire matter.

1 (Doc. No. 19.) The notice stated that a request for dismissal would be filed with the court no later
2 than October 24, 2016. (Doc. No. 19.) Based upon this notice, the assigned magistrate judge
3 issued an order on September 15, 2016 vacating all court dates set and requiring that dispositional
4 documents be submitted no later than forty-five days from the date of the order. (Doc. No. 20.)
5 The magistrate judge noted that “[f]ailure to comply with this order may be grounds for the
6 imposition of sanctions against anyone who contributes to its violation.” (*Id.* at 2.)

7 On October 7, 2016, plaintiff filed a notice of voluntary dismissal pursuant to Federal
8 Rule of Civil Procedure 41(a)(1)(A)(i) against defendant Bank of America, N.A. (Doc. No. 21.)
9 Accordingly, the court terminated defendant Bank of America, N.A. from the action and found
10 that the motion to dismiss (Doc. No. 7) filed by Bank of America, N.A. had been rendered moot.
11 (Doc. No. 22.)

12 Nonetheless, plaintiff’s counsel has not filed dispositional documents with respect to
13 plaintiff’s claims against the remaining two defendants, Caliber Home Loans, Inc. and Summit
14 Management Company. The parties did file on October 24, 2016 a stipulation that a settlement
15 agreement with respect to those defendants and claims was expected to be finalized and a
16 stipulation of dismissal filed no later than November 23, 2016. (Doc. No. 23 at 2.) On November
17 22, 2016, the parties filed another stipulation indicating that the settlement agreement was
18 expected to be finalized and a stipulation of dismissal filed no later than January 4, 2017. (Doc.
19 No. 24 at 2.) January 4, 2017 has come and gone, but the remaining parties in this litigation have
20 not filed dispositional documents or otherwise contacted the court.

21 Accordingly, within fourteen days of the date of this order, counsel for plaintiff and for
22 defendant Caliber Home Loans, Inc. and Summit Management Company shall show cause in
23 writing why sanctions should not be imposed due to their for failure to file the dispositional
24 documents as indicated in their stipulations which have been filed with the court in this action.
25 Alternatively, counsel may file the stipulated dismissal. The parties are forewarned, that should
26 they fail to respond to this order to show cause in writing and/or fail to file dispositional
27 documents, as required by this order, sanctions will likely be imposed. *See Chambers v. NASCO,*

28 ////

1 *Inc.*, 501 U.S. 32, 42–46 (1991) (recognizing that it is within the inherent authority of the court to
2 control its docket and require compliance with its orders).

3 IT IS SO ORDERED.

4 Dated: January 18, 2017

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UNITED STATES DISTRICT JUDGE

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