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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CESAR A. BETANCOURT,  
  
Plaintiff,  
  
v.  
  
NEW CENTURY MORTGAGE  
CORPORATION, WELLS FARGO  
BANK, AMERICAN'S SERVICING CO.,  
AND FIRST AMERICAN TITLE,  
  
Defendants.

No. 1:16-cv-01855-AWI-SKO  
  
**ORDER DISMISSING COMPLAINT  
WITH LEAVE TO AMEND**

**SCREENING ORDER**

Plaintiff Cesar A. Betancourt, proceeding pro se, alleges a single claim of mortgage fraud against Defendants New Century Mortgage Corporation, Wells Fargo Bank, American's Servicing Co., and First American Title. This matter has been referred to a magistrate judge pursuant to 28 U.S.C. § 636(b) and Local Rules 302 and 304.

**I. Screening Requirement**

A court has inherent power to control its docket and the disposition of its cases with economy of time and effort for both the court and the parties. Landis v. North American Co., 299 U.S. 248, 254-55 (1936); Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9<sup>th</sup> Cir. 1992). Accordingly,

1 the Court screens all complaints filed by plaintiffs proceeding in propria persona to ensure that  
2 the complaint is not frivolous or malicious, states a claim upon which relief may be granted, and  
3 does not seek monetary relief from a defendant who is immune from such relief.

## 4 **II. Pleading Standards**

5 “Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court  
6 shall dismiss the case at any time if the court determines that . . . the action or appeal . . . fails to  
7 state a claim upon which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii).

8 “Rule 8(a)’s simplified pleading standard applies to all civil actions, with limited  
9 exceptions,” none of which applies here. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 512 (2002).  
10 Pursuant to Rule 8(a), a complaint must contain “a short and plain statement of the claim showing  
11 that the pleader is entitled to relief.” Fed.R.Civ.P. 8(a). “Such a statement must simply give the  
12 defendant fair notice of what the plaintiff’s claim is and the grounds upon which it rests.”  
13 *Swierkiewicz*, 534 U.S. at 512. Detailed factual allegations are not required, but “[t]headbare  
14 recitals of the elements of the cause of action, supported by mere conclusory statements, do not  
15 suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Ball Atlantic Corp. v. Twombly*, 550  
16 U.S. 554, 555 (2007). “Plaintiff must set forth sufficient factual matter accepted as true, to ‘state  
17 a claim that is plausible on its face.’” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555).  
18 While factual allegations are accepted as true, legal conclusions are not. *Twombly*, 550 U.S. at  
19 555.

20 Although accepted as true, “[f]actual allegations must be [sufficient] to raise a right to  
21 relief above the speculative level.” *Id.* (citations omitted). A plaintiff must set forth “the grounds  
22 of his entitlement to relief,” which “requires more than labels and conclusions, and a formulaic  
23 recital of the elements of a cause of action.” *Id.* at 555-56 (internal quotation marks and citations  
24 omitted). To adequately state a claim against a defendant, a plaintiff must set forth fully the legal  
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1 and factual basis for his claim.

2 **III. Parties**

3 Although the caption of the complaint includes four defendants, the factual allegations  
4 refer to only two: New Century Mortgage Corporation and Wells Fargo Bank. If Plaintiff intends  
5 to include American’s Servicing Co. and First American Title in his claim of mortgage fraud, he  
6 must allege facts tying these defendants to his claim. In addition, the body of the complaint  
7 identifies Quality Loan Services Corp. as a defendant but does not include Quality Loan Services  
8 Corp. as a defendant in the caption. Should Plaintiff file an amended complaint, as this order  
9 permits him to do, he must (1) name all defendants in the caption and (2) include factual  
10 allegations against each defendant in the body of the complaint.  
11

12 **IV. Federal Question Jurisdiction**

13 The complaint does not identify the federal statute upon which federal question  
14 jurisdiction is premised. The amended complaint should identify the federal statute under which  
15 the mortgage fraud claim proceeds.  
16

17 **V. Sufficiency of the Statement of Claim**

18 The statement of Plaintiff’s claim set forth on pages six and seven of the complaint fails to  
19 explain the underlying transaction giving rise to Plaintiff’s claim. The complaint does not  
20 identify the property secured by the mortgage or provide details concerning the underlying note  
21 and mortgage, such as the parties, the mortgage date, or the amount of the loan obligation. The  
22 amended complaint must set forth all information concerning the mortgage and the debt that the  
23 mortgage was intended to secure. Because the complaint appears to raise claims against multiple  
24 lenders, the allegations must state the relationships of these multiple lenders to Plaintiff and to  
25 each other. Plaintiff may wish to attach copies of the note and mortgage as clearly labeled  
26 exhibits to the complaint and incorporate the exhibits by reference.  
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1 The first allegation of the complaint states, “New Century ‘Mortgage prosses Fraud.’”  
2 Doc. 1 at 6. To the extent that Plaintiff intended to allege that New Century committed mortgage  
3 processing fraud, this allegation is conclusory. The complaint must set forth specific facts  
4 sufficient to support a claim of fraud against New Century under the federal statute on which the  
5 complaint proceeds.  
6

7 The next allegations state:

8 Well[s] Fargo Bank “1. advice from representative to be late on  
9 payments to qualify for modification 2. Disqualify for  
10 Modification. First to make more money to qualify and 2 not to  
11 make enough money to qualify but Bank put the number that they  
want, 3. They lost documents and month by month I had to send  
information again and again for about 3 years.

12 Doc. 1 at 6.

13 These allegations fail at the most basic level. The incomplete sentences and abbreviated  
14 references are insufficient for the Court to understand with confidence the facts that Plaintiff is  
15 attempting to allege. Further, vague references to “representative” and “they” are not sufficient to  
16 identify who was doing the described behavior.

17 Finally, the complaint alleges, “Bank open [sic] a lawsuit against me to use Bankruptcy to  
18 delay the Trustee’s sale case no. 16-90558-E-7 that was on my favor.” Doc. 1 at 7. This  
19 allegation presents a variety of problems. First, the case number provided does not concern  
20 Plaintiff or any property in Tulare County. The amended complaint should allege the correct case  
21 number, explain that the bankruptcy action took place in a jurisdiction other than the Eastern  
22 District of California, or allege facts explaining how Plaintiff is related to Bankruptcy case  
23 number 16-90558-E-7.

24 Allegations concerning the bankruptcy case and sale must also provide sufficient  
25 information to allow the Court to determine whether Plaintiff’s claims are properly brought in an  
26 action in the district court or must be brought (or should have been brought) in the bankruptcy  
27 action. If the complaint is intended to be an appeal of a bankruptcy court decision, the complaint  
28 should disclose that and attach the Bankruptcy Court’s underlying decision as an exhibit to the

1 complaint, incorporated by reference. The factual allegations concerning the bankruptcy should  
2 also be sufficiently detailed to support its relevance to Plaintiff's claim of mortgage fraud.

3 When Plaintiff amends the complaint, he should allege the facts and circumstances setting  
4 forth the procedural and factual history of his claim in chronological order. Each fact should be  
5 set forth in a separately numbered paragraph. Use of complete sentences will more fully express  
6 what Plaintiff is trying to say and help the Court understand the claim and its basis. Each actor  
7 should be specifically identified. Without a clear understanding of the facts of this case, the  
8 Court cannot evaluate whether it has jurisdiction over Plaintiff's claim and whether the claim is  
9 substantively plausible.

10 **VI. Conclusion and Order**

11 The complaint fails to state a claim upon which relief can be granted. The Court will  
12 provide Plaintiff with an opportunity to file an amended complaint curing the deficiencies  
13 identified in this order. The amended complaint should be brief but must clearly identify the  
14 federal statute giving rise to Plaintiff's claim and state what each Defendant did that rendered it  
15 liable to Plaintiff under the statute. Fed.R.Civ.P. 8(a). An amended complaint supersedes the  
16 prior complaint and should be complete in itself without the Court or Defendants having to rely  
17 on any prior or superseded pleading. Local Rule 220.

18 Based on the foregoing, it is hereby ORDERED that:

- 19 1. The above-captioned complaint is dismissed with leave to  
20 amend for failure to state a claim;
- 21 2. Within thirty (30) days of this order, Plaintiff shall file an  
22 amended complaint curing the deficiencies identified by the Court  
23 in this order; and
- 24 3. If Plaintiff fails to file an amended complaint within thirty  
25 (30) days of this order, this action will be dismissed without  
26 prejudice for failure to state a claim.

25 IT IS SO ORDERED.

26 Dated: April 11, 2017

27 /s/ Sheila K. Oberto  
28 UNITED STATES MAGISTRATE JUDGE