

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK OSEI,

Case No. 2:09-CV-02534-JAM-GGH

Plaintiff,

ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS

v.

GMAC MORTGAGE; COUNTRYWIDE HOME
LOANS; BANK OF AMERICA fka
Countrywide Home Loans;
GREENPOINT MORTGAGE FUNDING,
INC.; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; ETS
SERVICES, LLC; PELLETIER
FINANCE, INC. dba Delta
Mortgage and Real Estate;
JEFFERY ALAN PELLETIER; JEFFERY
PAUL OLSON; JEFFERY BRYAN
DELORA; and DOES 1-20
inclusive,

Defendants.

_____ /

This matter comes before the Court on Defendants'
Countrywide Home Loans, Inc., Bank of America, N.A., and
Mortgage Electronic Registration Systems, Inc.'s ("Defendants'")

1 Motion to Dismiss, (Doc # 30), Plaintiff Patrick Osei's
2 ("Plaintiff's") First Amended Complaint for failure to state a
3 claim pursuant to Federal Rule of Civil Procedure 12(b)(6).¹
4 Additionally, the Court has taken Judicial Notice of all
5 documents requested by Defendants.
6

7 Plaintiff did not file a timely opposition or statement of
8 non-opposition to Defendants' Motion to Dismiss. Local Rule
9 230(c) requires a party responding to a motion to file either an
10 opposition to the motion or a statement of non-opposition, no
11 less than fourteen (14) days preceding the noticed hearing date.
12 Local Rule 110 authorizes the Court to impose sanctions for
13 "failure of counsel or of a party to comply with these Rules."
14 Therefore, the Court will sanction Plaintiff's counsel, Randolph
15 Cooke, \$250.00, unless he shows good cause for his failure to
16 comply with the Local Rules.
17
18

19 Plaintiff filed a late statement of non-opposition to
20 dismissing his federal claims, and a late opposition to
21 dismissing his state claims, the day before Defendants' reply
22 brief was due. The Court has considered Plaintiff's late filed
23 opposition and statement of non-opposition, and finds the
24 amended complaint lacks merit for the reasons stated in the
25
26
27

28 ¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g).

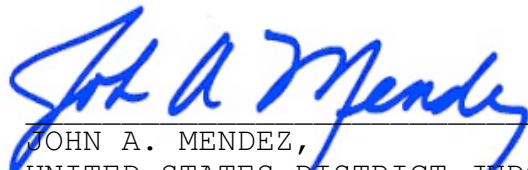
1 Motion to Dismiss. It is clear that allowing Plaintiff the
2 opportunity to file a third complaint would be futile.

3
4
5 ORDER

6 After carefully considering the papers submitted in this
7 matter, it is hereby ordered that Defendants' Motion to Dismiss
8 is GRANTED, WITH PREJUDICE.² It is further ordered that within
9 ten (10) days of this Order Randolph Cooke shall either (1) pay
10 sanctions of \$250.00 to the Clerk of the Court, or (2) submit a
11 statement of good cause explaining his failure to comply with
12 Local Rule 230(c).
13

14
15 IT IS SO ORDERED.

16
17
18 Dated: April 22, 2010

19 
20 _____
21 JOHN A. MENDEZ,
22 UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28

² Because the Court is granting the motions to dismiss with prejudice, Defendants' Motion to Strike is moot.