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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CONG MINH TRAN AND
PHUONG HUYNH,

NO. CIV. S-09-3277 LKK/DAD

Plaintiffs,

v.

O R D E R

WASHINGTON MUTUAL BANK,
et al.,

Defendants.

_____ /

Plaintiffs in this case bring numerous claims arising out of their home loan and mortgage. On January 19, 2010, JPMorgan Chase Bank, N.A., and Bank of America (as successors to defendants Washington Mutual Bank LaSalle Bank, N.A., respectively) filed a motion to dismiss, which was noticed for hearing on March 8, 2010. Pursuant to Local Rule 230(c), plaintiffs were obliged to file either an opposition or notice of non-opposition no later than February 22, 2010. Plaintiffs failed to file either document.

Also on February 22, plaintiffs failed to appear at the

1 scheduled status conference. However, prior to the scheduled status
2 conference, plaintiffs and some defendants filed a stipulation for
3 referral to the Voluntary Dispute Resolution Program ("VDRP")
4 pursuant to E.D. Cal. Local Rule 271. However, not all served
5 defendants stipulated to referral to VDRP as required in E.D. Cal.
6 Local Rule 271(b)(4). Accordingly, this court does not refer this
7 case to VDRP.

8 On February 19, 2010, plaintiff filed an amended complaint,
9 perhaps in an attempt to moot the pending motions. This amended
10 complaint is untimely. Pursuant to the amendments to Fed. R. Civ.
11 P. 15 that took effect on December 1, 2009, Rule 15(a)(1) now
12 provides that:

13 A party may amend its pleading once as a
14 matter of course within:

15 (A) 21 days after serving it, or

16 (B) if the pleading is one to which a
17 responsive pleading is required, 21 days after
18 service of a responsive pleading or 21 days
after service of a motion under Rule 12(b),
(e), or (f), whichever is earlier.

19 In this case both the complaint and the Rule 12 motions were served
20 after the effective date of the amendment, so it is clear that the
21 amended rule applies. (Dkt. Nos. 11, 16). The Rule 12 motion was
22 filed on January 19, 2010, and the latest service of the complaint
23 was completed on December 8, 2009. (Id.). The right to amend as
24 a matter of course thus expired before February 19, 2010.
25 Accordingly, the court disregards plaintiff's amended complaint.

26 Based on the above, the court ORDERS as follows:

1 1. Counsel for plaintiffs is hereby ORDERED TO SHOW CAUSE
2 why sanctions should not issue for failure to comply
3 with the local rules, including dismissal of this case
4 and/or monetary sanction of \$250. Counsel is cautioned
5 that the fact that she represents clients in a large
6 number of similar cases is not good cause for failing to
7 comply with the local rules. C.f. Mensah v. GMAC
8 Mortgage, No. 2:09-cv-3196, Plaintiff's Response to
9 Order to Show Cause, Dkt. No. 38 (E.D. Cal. Feb. 8,
10 2010). Counsel shall file a response to this order to
11 show cause no later than March 8, 2010.

12 2. Hearing on defendants' motion to dismiss (Dkt. No. 11)
13 is CONTINUED to March 22, 2010 at 10:00 a.m.

14 3. Plaintiffs shall file and serve their opposition or
15 statement of non-opposition on or before March 8, 2010.
16 Defendants may file and serve a reply no later than
17 March 15, 2010.


18 4. A further status conference is set for April 26, 2010 at
19 3:00 p.m.

20 5. This case is not referred to VDRP.

21 6. Plaintiff's amended complaint, Dkt. No. 23, is
22 disregarded.

23 IT IS SO ORDERED.

24 DATED: March 1, 2010.

25 
26 LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT