

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 JOSEPH SANCHEZ,

No. 2:09-cv-03341-MCE-JFM

12 Plaintiff,

13 v.

MEMORANDUM AND ORDER

14 GMAC Mortgage, LLC,

15 Defendant.  
16

-----oo0oo-----  
17

18 This action arises out of a mortgage loan transaction in  
19 which Plaintiff Joseph Sanchez ("Plaintiff") refinanced his home  
20 in November 2004. Presently before the Court is a Motion by  
21 Defendant GMAC Mortgage, LLC ("Defendant") to Dismiss the claims  
22 alleged against it in Plaintiff's First Amended Complaint for  
23 failure to state a claim upon which relief may be granted  
24 pursuant to Federal Rule of Civil Procedure 12(b)(6), or  
25 alternatively, a Motion for a More Definite Statement under  
26 Federal Rule of Civil Procedure 12(e).

27 ///

28 ///

1 Defendant also filed a Motion to Strike pursuant to Rule 12(f).<sup>1</sup>  
2 Plaintiff has failed to timely file an opposition.

3 Pursuant to Local Rule 230(c), opposition to a motion must  
4 be filed not less than fourteen (14) days prior to the date of  
5 the hearing. The date of the hearing on motion was set for  
6 February 25, 2010. Fourteen (14) days prior to the hearing was  
7 February 11, 2010. No opposition was filed as required.

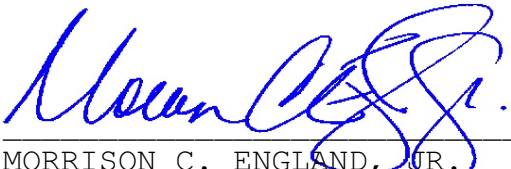
8 In light of the fact that no opposition was filed by  
9 Plaintiff, Defendant's Motion to Dismiss (Docket No. 20) is  
10 GRANTED with leave to amend.

11 Plaintiff may file an amended complaint not later than  
12 twenty (20) days after the date this Memorandum and Order is  
13 filed electronically. If no amended complaint is filed within  
14 said twenty (20)-day period, without further notice, Plaintiff's  
15 claims will be dismissed without leave to amend.

16 Defendant's Motion to Strike (Docket No. 9) is DENIED as  
17 moot.

18 IT IS SO ORDERED.

19 Dated: May 26, 2010

20  
21   
22 MORRISON C. ENGLAND, JR.  
23 UNITED STATES DISTRICT JUDGE  
24  
25  
26

---

27 <sup>1</sup> Because oral argument will not be of material assistance,  
28 the Court deemed this matter suitable for decision without oral  
argument. Local Rule 230 (g).