

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

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JESS C. REYES

Plaintiff,

v.

INDYMAC FEDERAL BANK,  
et. al.,

Defendants.

No. 2:09-cv-03382-MCE-KJM

MEMORANDUM AND ORDER

-----oo0oo-----

This action arises out of a mortgage loan transaction in which Plaintiff Jess Reyes ("Plaintiff") obtained a home loan in June 2006. Presently before the Court are Motions by Defendants MTC Financial, Inc., JPMorgan Chase Bank, N.A., and Mortgage Electronic Registrations Systems, Inc. (collectively "Defendants") to Dismiss the claims alleged against them in Plaintiff's Complaint for failure to state a claim upon which relief may be granted pursuant to Federal Rule of Civil Procedure 12(b)(6).

///

1 Defendant MTC Financial, Inc. concurrently moves to strike  
2 portions of Plaintiff's Complaint pursuant to Federal Rule of  
3 Civil Procedure Rule 12(f). Plaintiff has failed to timely file  
4 an opposition.<sup>1</sup>

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

10 As a result of Plaintiff's counsel Sharon Lapin's repeated  
11 failure to comply with Local Rules, within ten (10) days from the  
12 date this Order is electronically filed, Lapin shall either  
13 (1) personally pay sanctions in the amount of \$250.00 to the  
14 Clerk of the Court or (2) show good cause for the failure to  
15 comply with Local Rule 230(c).

16 However, this Court is in receipt of Plaintiff's late-filed  
17 First Amended Complaint. While Plaintiff's original Complaint  
18 alleged violations of both federal and state laws, Plaintiff's  
19 Amended Complaint abandons his federal claims.

20 With only Plaintiff's state law claims remaining, this Court  
21 ceases to have subject matter jurisdiction over the suit. The  
22 Court declines to exercise its supplemental jurisdiction over the  
23 remaining state causes of action and they are dismissed without  
24 prejudice.

25 ///

---


27 <sup>1</sup> Because oral argument will not be of material assistance,  
28 the Court orders this matter submitted on the briefs. E.D. Cal.  
Local Rule 230 (g).

1 The Court need not address the merits of Defendants' Motions to  
2 Dismiss (Docket Nos. 7, 10 and 13) as those issues are now moot.

3 For the reasons stated above, the case is dismissed. The  
4 Clerk is directed to close the file.

5 IT IS SO ORDERED.

6 Dated: February 26, 2010

7  
8   
9 \_\_\_\_\_  
MORRISON C. ENGLAND, JR.  
10 UNITED STATES DISTRICT JUDGE  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28