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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WESLIE H. IMADA,

No. 2:10-cv-00157-MCE-GGH

Plaintiff,

v.

MEMORANDUM AND ORDER

ONEWEST BANK, FSB, et al.,

Defendants.

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This action arises out of a mortgage loan transaction in which Plaintiff Weslie H. Imada ("Plaintiff") refinanced his home in February 2007. Presently before the Court is a Motion by Defendants OneWest Bank FSB and Mortgage Electronic Registration Systems, Inc. ("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 Plaintiff has failed to file an Opposition.

¹ Because oral argument will not be of material assistance, the Court deemed this matter suitable for decision without oral argument. E.D. Cal. Local Rule 230 (g).

1 On April 26, 2010, the parties filed a Stipulation to take
2 Defendants' Motion to Dismiss off calendar. Said stipulation
3 fails to address whether the Motion to Dismiss is withdrawn or
4 still pending. Accordingly, pursuant to Federal Rule of Civil
5 Procedure 83(b), the stipulation is stricken as vague.

6 On April 23, 2010, Plaintiff late-filed a First Amended
7 Complaint. Pursuant to Federal Rule of Civil Procedure
8 15(a)(1)(B), Plaintiff's authority to amend his pleading as a
9 matter of course expired twenty-one (21) days after Defendants'
10 Motion to Dismiss was filed. Plaintiff's First Amended Complaint
11 was not timely filed and is hereby stricken.

12 In light of no opposition filed by Plaintiff, Defendants'
13 Motion to Dismiss (Docket No. 12) is GRANTED with leave to amend.

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

19 IT IS SO ORDERED.

20 Dated: May 11, 2010

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22 MORRISON C. ENGLAND, JR.
23 UNITED STATES DISTRICT JUDGE
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