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

RANDY K. HARRIS,

Plaintiff,

No. CIV 2:10cv0483-JAM-JFM (PS)

vs.

HOMEQ SERVICING,

Defendant.

FINDINGS & RECOMMENDATIONS

_____ /
This action was referred to the undersigned pursuant to Local Rule 302(c)(21).
On March 16, 2010, defendant filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6).

Local Rule 230(c) provides that opposition to the granting of a motion must be filed fourteen days preceding the noticed hearing date. The Rule further provides that “[n]o party will be entitled to be heard in opposition to a motion at oral arguments if written opposition to the motion has not been timely filed by that party.” Id.

Defendant’s motion to dismiss was initially scheduled to be heard on April 29, 2010. Because plaintiff did not file an opposition, the undersigned continued the hearing to June 3, 2010. Again, plaintiff has not filed an opposition to defendant’s motion to dismiss. Plaintiff’s failure to oppose should therefore be deemed a waiver of opposition to the granting of the motion.

1 Accordingly, IT IS HEREBY ORDERED that the hearing on defendant's motion
2 to dismiss, set for June 3, 2010, is vacated; and

3 IT IS HEREBY RECOMMENDED that:

- 4 1. Defendant's March 16, 2010 motion to dismiss be granted; and
5 2. This action be dismissed.

6 These findings and recommendations are submitted to the United States District
7 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
8 days after being served with these findings and recommendations, any party may file written
9 objections with the court and serve a copy on all parties. Such a document should be captioned
10 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
11 objections shall be filed and served within fourteen days after service of the objections. The
12 parties are advised that failure to file objections within the specified time may waive the right to
13 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: May 24, 2010.

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17 UNITED STATES MAGISTRATE JUDGE

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