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

RAYMOND USHER,

Plaintiff,

No. CIV S-10-0952 LKK DAD PS

vs.

GREENPOINT MORTGAGE
FUNDING, INC., RELIABLE TRUST
DEED SERVICES, VANDERBILT
MORTGAGE & FINANCE INC.,
and DOES 1-10,

ORDER

Defendants.

_____ /

Plaintiff is proceeding pro se with the above-entitled action. The matter was referred to a United States Magistrate Judge pursuant to Local Rule 302(c)(21).

On December 2, 2010, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice that any objections to the findings and recommendations were to be filed within twenty-one days after being served with the findings and recommendations.

Plaintiff filed timely objections in which he included an unnoticed motion for leave to amend his first amended complaint. (Doc. No. 21.) Plaintiff also filed a proposed second amended complaint. (Doc. No. 22.) Defendant Greenpoint Mortgage Funding, Inc. filed

1 a timely reply to plaintiff's objections together with opposition to plaintiff's unnoticed motion.
2 (Doc. No. 23.) Defendants Reliable Trust Deed Services and Vanderbilt Mortgage & Finance,
3 Inc. joined in defendant Greenpoint's reply and opposition, and also filed a request for judicial
4 notice of pleadings, orders, and other documents filed in other foreclosure cases filed by plaintiff
5 regarding additional properties. (Doc. Nos. 25 & 26.) Plaintiff filed an unauthorized reply to
6 defendants' replies. (Doc. No. 28.)

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule
8 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire
9 file, including plaintiff's motion to amend and proposed second amended complaint, the court
10 finds the findings and recommendations to be supported by the record and by proper analysis.
11 Plaintiff's motion will be denied for the reasons set forth by the magistrate judge in support of his
12 recommendation that defendants' motion to dismiss be granted without leave to amend.

13 Accordingly, IT IS HEREBY ORDERED that:

14 1. The findings and recommendations filed December 2, 2010 (Doc. No. 20) are
15 adopted in full;


16 2. Defendants' requests for judicial notice (Doc. Nos. 6 & 26) are granted
17 pursuant to Federal Rule of Evidence 201;

18 3. In light of plaintiff's pro se status, defendants' motion to strike (Doc. No. 14)
19 plaintiff's untimely opposition to defendants' motion to dismiss is denied;

20 4. Defendants' motion to dismiss (Doc. No. 5), originally filed on April 26, 2010,
21 is granted pursuant to Federal Rules of Civil Procedure 12(b)(6); and

22 5. This action is dismissed in its entirety with prejudice.

23 DATED: February 2, 2011.

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