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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 CHARLES MACKLIN,

No. 2:10-cv-01081-MCE-DAD

12 Plaintiff,

13 v.

MEMORANDUM AND ORDER

14 INDYMAC BANK, INC.; ONE WEST
15 INC.; FREDDIE MAC BANK, INC.;
16 TRUSTEE CORP., INC.; TITANIUM
17 SOLUTIONS, INC.; and DOES 1
18 to 50,

19 Defendants.

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21 Presently before the Court is a Motion by Defendant Titanium
22 Solutions, Inc. ("Defendant") to Dismiss the claims alleged
23 against it in the Complaint of Plaintiff Charles Macklin
24 ("Plaintiff") for failure to state a claim upon which relief may
25 be granted pursuant to Federal Rule of Civil Procedure 12(b)(6).

26 In 2007, Plaintiff obtained a mortgage loan from IndyMac
27 Bank, on which he later defaulted. On July 14, 2009 a Notice of
28 Trustee's Sale was recorded setting foreclosure for August 3,
2009. At the sale, the Federal Home Loan Mortgage Corporation
("Freddie Mac") purchased Plaintiff's home.

1 Defendant was hired by Freddie Mac to deliver information to
2 borrowers whose homes have been foreclosed upon and to discuss
3 opportunities to reinstate their loans in order to avoid the loss
4 of the their homes. Titanium sent a letter to Plaintiff on
5 September 9, 2009 regarding reinstatement, and on September 16,
6 2009 went to Plaintiff's home to provide an application.
7 Plaintiff states he submitted his proof of income to Defendant on
8 two occasions.

9 On May 1, 2010 Plaintiff filed suit regarding his mortgage
10 loan, naming Titanium as one of multiple defendants and alleging
11 all twelve of his causes of action against it. Defendant has
12 responded by filing the present Motion to Dismiss, arguing that
13 it was in no way related origination or servicing of Plaintiff's
14 loan.

15 Plaintiff has filed a Statement of Non-Opposition in which
16 he does not oppose Defendant's dismissal if done without
17 prejudice. While the Court has grave doubts as to whether
18 Plaintiff will be able to state a cause of action against
19 Defendant, leave to amend will be granted this one time.

20 Accordingly, Defendant's Motion to Dismiss (Docket No. 6) is
21 GRANTED with leave to amend.¹ Plaintiff may file an amended
22 complaint not later than twenty (20) days after the date this
23 Memorandum and Order is filed electronically.

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27 ¹ Because oral argument will not be of material assistance,
28 the Court ordered this matter submitted on the briefing. E.D.
Cal. Local Rule 230(g).

1 If no amended complaint is filed within said twenty (20)-day
2 period, without further notice, Plaintiff's claims will be
3 dismissed without leave to amend.

4 IT IS SO ORDERED.

5 Dated: July 23, 2010

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8 MORRISON C. ENGLAND, JR.
9 UNITED STATES DISTRICT JUDGE
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