

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CHARLES MACKLIN, No. 2:10-cv-01081-MCE-DAD  
Plaintiff,  
v. MEMORANDUM AND ORDER

INDYMAC BANK, INC.; ONE WEST INC.; FREDDIE MAC BANK, INC.; TRUSTEE CORP., INC.; TITANIUM SOLUTIONS, INC.; and DOES 1 to 50,

Defendants.

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

In 2007, Plaintiff obtained a mortgage loan from IndyMac Bank, on which he later defaulted. On July 14, 2009 a Notice of 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.<sup>1</sup> 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       <sup>1</sup> 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).

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

IT IS SO ORDERED.

Dated: July 23, 2010

  
Morrison C. England, Jr.  
UNITED STATES DISTRICT JUDGE