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

VASILIIY RUSU, et al.,

Plaintiffs,

No. CIV 2:10-cv-1578-GEB-JFM (PS)

vs.

BANK OF AMERICA, et al.,

Defendants.

ORDER AND

FINDINGS & RECOMMENDATIONS

_____ /

This action was referred to the undersigned pursuant to Local Rule 302(c)(21).
On July 7, 2010, defendants 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.

Plaintiff has not filed opposition to defendants’ motion to dismiss. Plaintiff’s
failure to oppose should therefore be deemed a waiver of opposition to the granting of the
motion.

Accordingly, IT IS HEREBY ORDERED that the hearing on defendants’ motion
to dismiss, set for November 18, 2010, is vacated; and

1 IT IS HEREBY RECOMMENDED that:

- 2 1. Defendants' July 7, 2010 motion to dismiss be granted; and
3 2. This action be dismissed.

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

12 DATED: November 16, 2010.

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15 UNITED STATES MAGISTRATE JUDGE

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