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

MALIK REED,

Plaintiff,

No. CIV S-10-2133 GEB EFB PS

vs.

WELLS FARGO HOME MORTGAGE INC.;
FIRST AMERICAN LOANSTAR TRUSTEE
SERVICES; NEW CENTURY MORTGAGE
CORPORATION; and US BANK NATIONAL
ASSOCIATION,

Defendants.

ORDER TO SHOW CAUSE

_____ /
This case, in which plaintiff is proceeding *pro se*, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On February 8, 2011, the district judge adopted the undersigned’s recommendation that defendants First American Trustee Servicing Solutions, LLC, f/k/a First American Loanstar Trustee Services, LLC and Wells Fargo Home Mortgage, Inc.’s dismissal motions be granted, and dismissed plaintiff’s complaint, Dckt. No. 1, without leave to amend as to those defendants.¹ Dckt. No. 37.

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¹ Among other things, the February 8, 2011 order also struck plaintiff’s December 23, 2010 amended complaint, Dckt. No. 31.

1 Accordingly, the only defendants remaining in this action are New Century Mortgage
2 Corporation and U.S. Bank National Association.

3 It appears from the court file that plaintiff has not yet properly effected service of process
4 on either of the two remaining defendants, New Century Mortgage Corporation and U.S. Bank
5 National Association. Plaintiff has not filed an executed summons as to defendant U.S. Bank
6 National Association. Additionally, although plaintiff filed an executed summons indicating that
7 he personally served New Century Mortgage Corporation on August 20, 2010, Dckt. No. 15, on
8 August 30, 2010, New Century Mortgage Corporation filed a letter with this court indicating that
9 service was not perfected on it and that any claims against it are barred because, among other
10 reasons, New Century Mortgage Corporation filed bankruptcy in April 2007 and the bankruptcy
11 court subsequently appointed a liquidating trustee and established an exclusive procedure by
12 which any claims against the parties in bankruptcy were to proceed. Dckt. No. 4.

13 Accordingly, plaintiff will be ordered to show cause why New Century Mortgage
14 Corporation and/or U.S. Bank National Association should not be dismissed, and as a result, this
15 case be dismissed in its entirety, for failure to effect service of process within the time prescribed
16 by Rule 4(m). Fed. R. Civ. P. 4(m); E.D. Cal. L.R. 110 (“Failure of counsel or of a party to
17 comply with these Rules or with any order of the Court may be grounds for imposition by the
18 Court of any and all sanctions authorized by statute or Rule or within the inherent power of the
19 Court.”); *see also* L.R. 183 (“Any individual representing himself or herself without an attorney
20 is bound by the Federal Rules of Civil or Criminal Procedure and by these Local Rules.”);
21 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (“Failure to follow a district court’s local rules
22 is a proper ground for dismissal.”). Failure to timely comply with this order may result in
23 sanctions, including a recommendation that this action be dismissed for lack of prosecution
24 and/or for failure to follow court orders.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Plaintiff shall show cause, in writing, on or before March 23, 2011, why New Century
3 Mortgage Corporation and/or U.S. Bank National Association should not be dismissed for failure
4 to effect service of process within the time prescribed by Rule 4(m).

5 2. Failure of plaintiff to comply with this order may result in a recommendation that
6 New Century Mortgage Corporation, U.S. Bank National Association, and/or this action be
7 dismissed for failure to follow court orders, for failure to effect service of process within the time
8 prescribed by Rule 4(m), and/or for lack of prosecution under Rule 41(b).

9 SO ORDERED.

10 DATED: March 8, 2011.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE