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

LAMONT JOHNSON,

Plaintiff,

No. CIV S-10-2839 GEB CKD PS

vs.

WACHOVIA BANK FSB, et al.,

ORDER

Defendants.

_____ /

Plaintiff is proceeding in this action pro se. On March 26, 2012, plaintiff was ordered to show cause in writing why this action should not be dismissed for failure to comply with the court’s orders and for failure to timely serve process. Plaintiff has filed a response to the order to show cause.

Plaintiff contends he did not timely serve process because of the pendency of certain class actions. This action has been pending since May 11, 2010. Although plaintiff contends defendant Wells Fargo was properly served in this matter, there is no evidence submitted in support of plaintiff’s contention. Plaintiff will therefore be granted additional time to complete service of process in compliance with Federal Rule of Civil Procedure 4.

In the response to the order to show cause, plaintiff asserts he intends to dismiss all defendants except for defendant Wells Fargo. The court will construe plaintiff’s filing as a

1 request to voluntarily dismiss the remaining defendants under Federal Rule of Civil Procedure
2 41(a).

3 Plaintiff also asserts that he intends to amend the complaint. An amended
4 complaint has already been filed in this action. See *dk.* no. 15. As such, leave of court is
5 required before plaintiff may file an amended complaint. See Fed. R. Civ. P. 15. Because
6 defendant has not yet been served and plaintiff has not submitted a proposed amended complaint,
7 the court cannot determine at this time whether leave to amend should be granted. Plaintiff is
8 advised that any motion for leave to amend the complaint must be properly noticed for hearing,
9 must be accompanied by a proposed amended complaint, and said motion may not be filed until
10 defendant has been served with summons in this action.

11 Accordingly, IT IS HEREBY ORDERED that:

12 1. The March 26, 2012 order to show cause is discharged.

13 2. All defendants except defendant Wells Fargo Bank, N.A. are dismissed under
14 Federal Rule of Civil Procedure 41(a).

15 3. No later than May 11, 2012, plaintiff shall serve process on defendant Wells
16 Fargo Bank, N.A. in compliance with Federal Rule of Civil Procedure 4 and shall file written
17 proof of said service with the court.

18 Dated: April 10, 2012

19 
20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE

22 4
johnson-wachovia.osc.dis