

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CRAIG OHLENDORF,

NO. CIV. S-11-293 LKK/EFB

Plaintiff,

v.

AMERICAN BROKERS CONDUIT,
et al.,

O R D E R

Defendants.

_____ /

On March 12, 2012, Plaintiff Craig E. Ohlendorf filed a request with the court to "approve the substitution of himself in pro per as attorney of record in place and stead of Holly S. Burgess." Pl's Req., ECF No. 50. In response, on March 14, 2012, this court issued an order requiring Plaintiff's counsel of record to file a notice of withdrawal in accordance with Local Rule 182(d).¹ Order, ECF No. 54.

¹Local Rule 182(d) provides:

[A]n attorney who has appeared may not withdraw leaving the client in propria persona without leave

1 On March 26, 2012, Plaintiff's counsel of record, Holly S.
2 Burgess, properly filed a motion to withdraw as counsel leaving
3 plaintiff in propria persona. See Pl's Mot., ECF No. 56. Because
4 Plaintiff clearly does not contest the withdrawal of his counsel,
5 leaving him in propria persona, Counsel's motion to withdraw is
6 GRANTED.

7 As a separate matter, on March 13, 2012, Defendant Sand Canyon
8 Corporation, formerly known as Option One Mortgage Corporation
9 ("Option One"), filed a motion to dismiss Plaintiff's complaint.
10 See Def's Mot., ECF No. 52. On March 21, 2012, Defendant Mortgage
11 Electronic Registration Systems, Inc. ("MERS") filed a notice of
12 joinder in Defendant Option One's motion to dismiss Plaintiff's
13 complaint. See Joinder, ECF No. 55. Defendants Option One and MERS
14 here make substantially similar arguments to those previously
15 raised by Defendants American Home Mortgage Servicing, Inc.
16 ("AHMSI"), Power Default Services, Inc. ("PDSI"), Deutsche Bank
17 National Trust Company ("Deutsche"), see ECF No. 12; LSI Title

18
19 of court upon noticed motion and notice to the
20 client and all other parties who have appeared.
21 The attorney shall provide an affidavit stating the
22 current or last known address of addresses of the
23 client and the efforts made to notify the client of
24 the motion to withdraw. Withdrawal as attorney is
25 governed by the Rules of Professional Conduct of
26 the State Bar of California, and the attorney shall
conform to the requirements of those Rules. The
authority and duty of the attorney of record shall
continue until relieved by order of the Court
issued hereunder. Leave to withdraw may be granted
subject to such appropriate conditions as the Court
deems fit.

L.R. 182(d).

1 Company ("LSI"), see ECF No. 15; and T.D. Service Company ("T.D."),
2 see ECF No. 37, in their motions to dismiss Plaintiff's complaint,
3 which have already been addressed by this court.²

4 By order issued on March 5, 2012, this court granted the
5 motions to dismiss Plaintiff's complaint filed by Defendants AHMSI,
6 PDSI, Deutsche, LSI, and T.D. See Order, ECF No. 49. The court
7 dismissed each of Plaintiff's claims without prejudice, except for
8 Plaintiff's TILA and HOEPA rescission claims, which were dismissed
9 with prejudice. Id. Because Defendants Option One and MERS here
10 make substantially similar arguments to those which the court
11 already addressed in its March 5, 2012 order, for the reasons
12 stated therein, Defendants' motion to dismiss is GRANTED. Each of
13 Plaintiff's claims against Defendants Option One and MERS are
14 dismissed without prejudice for the reasons stated in the court's
15 prior order, except for Plaintiff's TILA and HOEPA rescission
16 claims asserted against Defendants Option One and MERS, which are
17 dismissed with prejudice.

18 The hearing on Plaintiff's motion to withdraw as counsel, ECF
19 No. 56, and Defendants Option One and MER's motion to dismiss, ECF
20 No. 52, which is currently set for April 23, 2012 at 10:00 A.M, is
21 VACATED.


22 ////

24 ² Summons issued as to Defendants MERS and Option One had been
25 returned executed, see ECF Nos. 33, 34, but MERS and Option One did
26 not file answers to Plaintiff's complaint, nor did they join in the
motions to dismiss previously filed by Defendants AHMSI, PDSI,
Deutsche, LSI, and T.D.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IT IS SO ORDERED.

DATED: April 17, 2012.


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT