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

RODOLFO VELASQUEZ,

Plaintiff,

No. CIV 2:11-cv-1019-GEB-JFM

vs.

CHASE HOME FINANCE LLC, *et al.*,

Defendants.

ORDER

_____ /

Plaintiff, proceeding pro se and in forma pauperis, filed this action in the Solano County Superior Court against defendants Chase Home Finance LLC (“Chase”) and Fannie Mae pursuant to numerous causes of action, including the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*; the Truth in Lending Act, 12 U.S.C. § 1601, *et seq.*; and the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601, *et seq.* On April 15, 2011, the action was removed to this court by Chase. On April 25, 2011, Chase filed a motion to dismiss, which is scheduled to be heard before the undersigned on June 23, 2011.

On June 1, 2011, plaintiff filed a first amended complaint in which he seeks to dismiss his federal claims and have this action remanded to state court. See Doc. No. 11. On June 14, 2011, Chase filed a motion to dismiss the first amended complaint scheduled to be heard on August 4, 2011.

1 At this procedural posture, plaintiff may not unilaterally amend his complaint
2 without leave of court. See Fed. R. Civ. P. 15(a). Plaintiff is informed that if he wishes to
3 amend his complaint to dismiss the federal causes of action, he must do so in compliance with
4 Federal Rule of Civil Procedure 15(a) and Local Rule 137(c). Accordingly, the first amended
5 complaint will be stricken and Chase’s June 14, 2011 motion to dismiss will be denied.

6 Additionally, the docket reveals that plaintiff has not filed an opposition or
7 statement of non-opposition to Chase’s April 25, 2011 motion to dismiss. Local Rule 230(c)
8 provides that opposition to the granting of a motion must be filed fourteen days preceding the
9 noticed hearing date. The Rule further provides that “[n]o party will be entitled to be heard in
10 opposition to a motion at oral arguments if written opposition to the motion has not been timely
11 filed by that party.” In addition, Local Rule 230(i) provides that failure to appear may be deemed
12 withdrawal of opposition to the motion or may result in sanctions. Finally, Local Rule 110
13 provides that failure to comply with the Local Rules “may be grounds for imposition of any and
14 all sanctions authorized by statute or Rule or within the inherent power of the Court.”

15 Good cause appearing, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff’s June 1, 2011 first amended complaint is stricken;
- 17 2. Chase’s June 14, 2011 motion to dismiss is denied and the August 4, 2011
18 hearing on this motion is vacated;
- 19 3. The hearing date on Chase’s April 25, 2011 motion to dismiss currently
20 scheduled for June 23, 2011 is continued to August 4, 2011 at 11:00 a.m. in courtroom no. 26;
21 and
- 22 4. Plaintiff shall file opposition, if any, to the April 25, 2011 motion to dismiss,
23 no later than July 21, 2011. Failure to file opposition and appear at the hearing will be deemed as

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1 a statement of non-opposition and shall result in a recommendation that this action be dismissed
2 pursuant to Federal Rule of Civil Procedure 41(b).

3 DATED: June 20, 2011.

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UNITED STATES MAGISTRATE JUDGE

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