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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT K. CYPHERS, JR.,
Plaintiff,

No. 2:11-cv-01202-MCE-EFB

v.

ORDER

WELLS FARGO BANK, N.A.,
NATIONAL CITY BANK N.A.,
FINANCIAL TITLE COMPANY,
DOES 1-100,
Defendants.

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Plaintiff Robert K. Cyphers Jr. ("Plaintiff") seeks redress from Defendants Wells Fargo Bank, National City Bank, and Financial Title Company ("Defendants") for alleged violations of California Civil Code Sections 2923.5 and 2924 and 15 U.S.C. Sections 1601-1667, the Truth in Lending Act ("TILA"), among other state causes of action.

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1 Presently before the Court is a motion by Defendant Wells
2 Fargo to dismiss Plaintiff's Complaint for failure to state a
3 claim upon which relief may be granted pursuant to Federal Rule
4 of Civil Procedure 12(b)(6) (ECF No. 5).¹

5 Eastern District of California Local Rule 230(c) provides
6 that an opposition or statement of non-opposition to an
7 opponent's motion must be filed within fourteen days preceding
8 the noticed hearing date. The rule further provides that "[n]o
9 party will be entitled to be heard in opposition to a motion at
10 oral arguments if written opposition to the motion has not been
11 timely filed by that party." Id. Failure to appear or otherwise
12 respond may be deemed withdrawal of opposition to the motion and
13 the Court may impose sanctions accordingly.

14 The original hearing for this motion was set for July 14,
15 2011. Plaintiff did not file a timely opposition or a statement
16 of non-opposition pursuant to Local Rule 230(c). Nonetheless,
17 the motion was vacated on the Court's own motion, and the hearing
18 was continued to August 11, 2011. As of July 28, 2011, fourteen
19 days prior to the rescheduled hearing date, Plaintiff has again
20 failed to file an opposition to Defendant's Motion to Dismiss.

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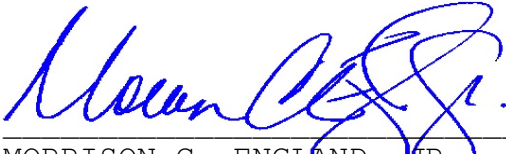
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28 ¹ All further references to "Rule" or "Rules" are to the Federal
Rules of Civil Procedure unless otherwise noted.

1 In light of the fact that no opposition was filed by
2 Plaintiff, Defendant's Motion to Dismiss² (Docket No. 5) is
3 GRANTED with leave to amend. As a result of the failure to
4 respond to the motion, within ten (10) days from the date this
5 order is electronically filed, Plaintiff's counsel shall either
6 (1) personally pay sanctions in the amount of \$250.00 to the
7 Clerk of the Court³, or (2) show good cause for the failure to
8 comply with Local Rule 230(c).

9 Plaintiff may file an amended complaint not later than
10 twenty (20) days after the date this Memorandum and Order is
11 filed electronically. If no amended complaint is filed within
12 said twenty (20)-day period, without further notice, Plaintiff's
13 claims will be dismissed without leave to amend.

14 IT IS SO ORDERED.

15 Dated: August 5, 2011

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18 MORRISON C. ENGLAND, JR.
19 UNITED STATES DISTRICT JUDGE
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26 ² Because oral argument will not be of material assistance, the
27 Court orders this matter submitted on the briefs. E.D. Cal.
28 Local Rule 230(g).

³ The Court is authorized to impose sanctions for failure to
comply with the Local Rules. E.D. Cal. Local Rule 110.