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

KIMPO TEANG,

Plaintiff,

No. CIV S-11-1379 MCE DAD PS

v.

FEDERAL NATIONAL
MORTGAGE ASSOCIATION, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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On May 23, 2011, plaintiff, proceeding pro se, filed a complaint and paid the required filing fee. The Clerk of the Court issued a summons as to defendants Federal National Mortgage Association; GMAC Mortgage, LLC; Mortgage Electronic Registration Systems, Inc.; Executive Trustee Services, LLC; and ETS Services, LLC. On September 23, 2011, the case came before the undersigned for a status conference pursuant to an order filed and served on plaintiff on August 24, 2011 (Doc. No. 9). No appearance was made by or on behalf of plaintiff or any defendant.

By order filed May 23, 2011, the court ordered plaintiff to complete service of process on each defendant named in the complaint within 120 days from the date of the order and cautioned plaintiff that this action may be dismissed for failure to effect timely service of process. (Doc. No. 3, at 2.) By the order filed August 24, 2011, setting the case for a status

1 conference, plaintiff was reminded that service of process must be effected on each defendant
2 within 120 days from the date the complaint was filed. (Doc. No. 9, at 3.) The court cautioned
3 plaintiff once again that “a defendant must be dismissed if service of process is not accomplished
4 on that defendant within 120 days from the date the complaint is filed.” (Id. (citing Fed. R. Civ.
5 P. 4(m).) Here, the 120-day period for service of process began to run on May 23, 2011, and
6 expired on September 20, 2011. Plaintiff has filed no evidence that service of process was
7 effected on any defendant on or before September 20, 2011, and no defendant has appeared in the
8 action.

9 The undersigned finds that plaintiff has failed to comply with Rule 4(m) and two
10 court orders that directed her to comply with the Rule and advised her of the consequences of
11 failing to do so. In addition, the court finds that plaintiff has failed to comply with the court’s
12 August 24, 2011 order requiring plaintiff to (1) appear at the status conference on September 23,
13 2011 in person or telephonically, (2) file a certificate of service indicating the date and manner of
14 service of the August 24, 2011 order upon each defendant, and (3) file a status report on or before
15 September 9, 2011. (Doc. No. 9, at 1-3.) Plaintiff was informed that failure to file a timely
16 status report or failure to appear at the status conference “may result in a recommendation that
17 this case be dismissed for lack of prosecution and as a sanction for failure to comply with court
18 orders and applicable rules.” (Doc. No. 9 at 3.) Moreover, the court’s docket for this case
19 reflects that plaintiff has failed to take any steps to prosecute this action after filing the
20 complaint. No order served on plaintiff has been returned to the court as undeliverable.

21 Accordingly, IT IS RECOMMENDED that this action be dismissed without
22 prejudice for failure to effect service on any defendant within the time specified in Rule 4(m) of
23 the Federal Rules of Civil Procedure, failure to comply with multiple requirements of the court’s
24 orders filed May 23, 2011 and August 24, 2011, and failure to prosecute this action.

25 These findings and recommendations will be submitted to the United States
26 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within

1 fourteen (14) days after being served with these findings and recommendations, plaintiff may file
2 written objections with the court. A document containing objections should be titled "Objections
3 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
4 objections within the specified time may waive the right to appeal the District Court's order. See
5 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

6 DATED: September 23, 2011.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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