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

BORIS MURZAK, et al.,

Plaintiffs,

No. CIV S-11-1952 GEB GGH PS

vs.

GREENPOINT MORTGAGE  
FUNDING, INC., et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_ /  
This action was referred to the undersigned pursuant to Local Rule 302(c)(21). Pursuant to Federal Rule of Civil Procedure 4(m), the court may dismiss an action where service of summons is not made within 120 days after the filing of the complaint. In the order requiring timely service filed July 25, 2011, plaintiff was cautioned that this action may be dismissed if service was not timely completed. This action was filed May 24, 2011 in state court and removed to this court on July 25, 2011, and plaintiff has not yet served defendants Greenpoint Mortgage Funding, Inc., Marin Conveyancing Corporation, and Residential Funding Company, LLC with summons. Although plaintiff entered into a stipulation of dismissal with defendants Bank of America, N.A., successor by merger to BAC Home Loan Servicing, LP; Recontrust Company; and Mortgage Electronic Registration Systems, Inc., that stipulation dismissed only those defendants and not the entire action.

1 As a result, by order of September 30, 2011, the action was re-opened, and  
2 plaintiff was directed to show cause for his failure to serve defendants Greenpoint Mortgage  
3 Funding, Inc., Marin Conveyancing Corporation, and Residential Funding Company, LLC in  
4 accordance with Federal Rule of Civil Procedure 4(m). Plaintiff has not responded to that order.

5 Accordingly, IT IS HEREBY RECOMMENDED that:

- 6 1. Defendants Greenpoint Mortgage Funding, Inc., Marin Conveyancing  
7 Corporation, and Residential Funding Company, LLC be dismissed; and
- 8 2. This action be closed.

9 These findings and recommendations are submitted to the United States District  
10 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
11 fourteen (14) days after being served with these findings and recommendations, any party may  
12 file written objections with the court and serve a copy on all parties. Such a document should be  
13 captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the  
14 objections shall be served and filed within fourteen (14) days after service of the objections. The  
15 parties are advised that failure to file objections within the specified time may waive the right to  
16 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

17 DATED: November 17, 2011

18 /s/ Gregory G. Hollows  
19 UNITED STATES MAGISTRATE JUDGE

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