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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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LORNA DELORES THOMPSON,
Plaintiff,

NO. CIV. 2:11-2261 WBS DAD

v.

MEMORANDUM AND ORDER RE:
MOTION TO DISMISS THIRD
AMENDED COMPLAINT

RESIDENTIAL CREDIT SOLUTIONS,
INC., a Delaware Corporation;
AMERICAN BROKERS CONDUIT, A
DIVISION OF AMERICAN HOME
MORTGAGE INVESTMENT
CORPORATION, a Maryland
Corporation; MERSCORP, INC.
dba MORTGAGE ELECTRONIC
REGISTRATION SYSTEM, INC. AS
NOMINEE FOR AMERICAN BROKERS
CONDUIT, AMERICAN HOME
MORTGAGE SERVICING, INC., and
all persons unknown, claiming
any legal or equitable right,
title, estate, lien, or
interest in the property,
described in the complaint
adverse to Plaintiff's title,
and any cloud on Plaintiff's
title thereto, and DOES 1-100,
inclusive,

Defendants.

/

1
2 Plaintiff Lorna Delores Thompson brings this action
3 against defendants Residential Credit Solutions, Inc. ("RCS"),
4 American Brokers Conduit ("ABC"), a division of American Home
5 Mortgage Investment Corporation ("AHMIC"), Merscorp, Inc.
6 ("Merscorp"), dba Mortgage Electronic Registration System, Inc.
7 ("MERS") as nominee for American Brokers Conduit, and American
8 Home Mortgage Servicing, Inc. ("AHMSI"), arising from defendants'
9 allegedly wrongful conduct related to a residential loan. RCS
10 and Merscorp now move to dismiss the Third Amended Complaint
11 ("TAC") for failure to state a claim upon which relief can be
12 granted pursuant to Federal Rule of Civil Procedure 12(b)(6).
13 (Docket No. 23.)

14 I. Factual and Procedural Background

15 In July of 2007, plaintiff purchased her residence at
16 2220 Cobblestone Avenue in Fairfield, California ("the
17 property"), with a loan she obtained from ABC. (TAC ¶ 1.) On
18 June 8, 2009, a Notice of Default was filed against the property
19 after plaintiff had accrued a total default of at least
20 \$17,654.25. (Req. for Judicial Notice ("RJN") Ex. 3 (Docket No.
21 26).) Beginning in June 2010, plaintiff was placed on a modified
22 monthly trial program by AHMIC. (TAC ¶ 18.) Plaintiff alleges
23 that under the modification agreement, AHMIC agreed to forbear
24 from commencement of foreclosure proceedings as long as she was
25 current on the payments. (Id. ¶ 20.) On October 18, 2010, a
26 Notice of Rescission of Notice of Default was recorded. (RJN Ex.
27 4.) After plaintiff's delinquency increased to \$62,437.88, a
28 second and operative Notice of Default was recorded on April 4,

1 2011. (Id. Ex. 5.)

2 On July 5, 2011, the National Default Servicing Corp.
3 ("NDSC") was substituted as trustee under the Deed of Trust.
4 (Id. Ex. 7.) The same day, NDSC recorded a Notice of Trustee's
5 Sale. (Id. Ex. 8.) The foreclosure sale took place on November
6 15, 2011, and a Trustee's Deed Upon Sale was recorded on November
7 28, 2011. (Id. Ex. 9.)

8 On July 18, 2011, plaintiff filed her First Amended
9 Complaint ("FAC") in the Superior Court of California, County of
10 Solano. On August 25, 2011, defendants removed the case to this
11 court based on diversity of citizenship. (Notice of Removal at
12 2:20-25 (Docket No. 1).) On November 22, 2011, the court granted
13 RCS and Merscorp's motion to dismiss the FAC. (Docket No. 12.)
14 Plaintiff filed her Second Amended Complaint ("SAC") on November
15 28, 2011. (Docket No. 13.) On January 26, 2012, the court
16 granted RCS and Merscorp's motion to dismiss the SAC. (Docket
17 No. 22.) Plaintiff filed her TAC on February 14, 2012. The TAC
18 alleges claims against defendants for: (1) wrongful foreclosure
19 under California Civil Code section 2924; (2) promissory
20 estoppel; (3) breach of contract; (4) quiet title; and (5)
21 declaratory relief.¹

22 II. Judicial Notice

23 A court may take judicial notice of facts "not subject
24 to reasonable dispute" because they are either "(1) generally
25

26 ¹ Plaintiff formally raises claim one for the first time
27 in her TAC, although it was raised in passing in her SAC. (See
28 SAC ¶ 62; Jan. 26, 2012, Order at 7 n.2 (Docket No. 22).)
Plaintiff previously raised variations of claims three and four
in her SAC and claims two and five in her FAC.

1 known within the territorial jurisdiction of the trial court or
2 (2) capable of accurate and ready determination by resort to
3 sources whose accuracy cannot reasonably be questioned." Fed. R.
4 Evid. 201. The court may take judicial notice of matters of
5 public record or of documents whose contents are alleged in the
6 complaint and whose authenticity is not questioned. Lee v. City
7 of L.A., 250 F.3d 668, 688-89 (9th Cir. 2001).

8 RCS and Merscorp have filed a request for judicial
9 notice in support of their motion to dismiss which contains nine
10 exhibits: (1) a copy of the Grant Deed, recorded in Solano County
11 on July 10, 2007; (2) a copy of the Deed of Trust, recorded in
12 Solano County on July 10, 2007; (3) a copy of the Notice of
13 Default and Election to Sell Under Deed of Trust, recorded in
14 Solano County on June 8, 2009; (4) a copy of the Notice of
15 Rescission, recorded in Solano County on October 18, 2010; (5) a
16 copy of the Notice of Default and Election to Sell Under Deed of
17 Trust, recorded in Solano County on April 4, 2011; (6) a copy of
18 the Corporation Assignment of Deed of Trust, recorded in Solano
19 County on May 3, 2011; (7) a copy of the Substitution of Trustee,
20 recorded in Solano County on July 5, 2011; (8) a copy of the
21 Notice of Trustee's Sale, recorded in Solano County on July 5,
22 2011; and (9) a copy of the Trustee's Deed Upon Sale, recorded in
23 Solano County on November 28, 2011. (Docket No. 26.)

24 The court will take judicial notice of defendants'
25 exhibits as they are matters of public record whose accuracy
26 cannot be questioned. See Lee, 250 F.3d at 689.

27 III. Discussion

28 On a motion to dismiss, the court must accept the

1 allegations in the complaint as true and draw all reasonable
2 inferences in favor of the plaintiff. Scheuer v. Rhodes, 416
3 U.S. 232, 236 (1974), overruled on other grounds by Davis v.
4 Scherer, 468 U.S. 183 (1984); Cruz v. Beto, 405 U.S. 319, 322
5 (1972). "To survive a motion to dismiss, a complaint must
6 contain sufficient factual matter, accepted as true, to 'state a
7 claim to relief that is plausible on its face.'" Ashcroft v.
8 Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v.
9 Twombly, 550 U.S. 544, 570 (2007)). This "plausibility
10 standard," however, "asks for more than a sheer possibility that
11 a defendant has acted unlawfully," and "[w]here a complaint
12 pleads facts that are 'merely consistent with' a defendant's
13 liability, it 'stops short of the line between possibility and
14 plausibility of entitlement to relief.'" Id. (quoting Twombly,
15 550 U.S. at 556-57).

16 A. Wrongful Foreclosure Under California Civil Code
17 Section 2924

18 California Civil Code section 2924 provides a
19 "comprehensive statutory framework" that governs the non-judicial
20 foreclosure process. Moeller v. Lien, 25 Cal. App. 4th 822, 834
21 (2d Dist. 1994); see Cal. Civ. Code § 2924 (listing, inter alia,
22 the requirements for a properly filed notice of default and the
23 timing and process for the foreclosure sale). Because of the
24 exhaustive nature of this scheme, California appellate courts
25 have refused to read any additional requirements into the non-
26 judicial foreclosure statute. See I.E. Assocs. v. Safeco Title
27 Ins. Co., 39 Cal. 3d 281, 288 (1985); Moeller, 25 Cal. App. 4th
28 at 834. Plaintiff brings a claim for relief under section 2924,

1 arguing that RCS is not a holder or beneficiary of the Note and
2 is therefore unable to foreclose upon plaintiff's property.

3 Under California Civil Code section 2924(a)(1), a
4 "trustee, mortgagee or beneficiary or any of their authorized
5 agents" may conduct the foreclosure process. Under California
6 Civil Code section 2924b(4), a "person authorized to record the
7 notice of default or the notice of sale" includes "an agent for
8 the mortgagee or beneficiary, an agent of the named trustee, any
9 person designated in an executed substitution of trustee, or an
10 agent of that substituted trustee." "Upon default by the
11 trustor, the beneficiary may declare a default and proceed with a
12 nonjudicial foreclosure sale." Moeller, 25 Cal. App. 4th at 830.
13 California's non-judicial foreclosure scheme does not explicitly
14 require a beneficial interest in the Note to foreclose. Rather,
15 the statute broadly allows a trustee, mortgagee, beneficiary, or
16 any of their agents to initiate non-judicial foreclosure.

17 Plaintiff alleges that RCS was the servicer of the
18 loan, (TAC ¶ 58), which would make it an agent of the Note owner
19 authorized to conduct a non-judicial foreclosure under section
20 2924. See Caravantes v. Cal. Reconveyance Co., 2010 WL 4055560,
21 at *9 (S.D. Cal. Oct. 9, 2010) (holding that defendant, as
22 servicer of the loan, had the authority to record the Notice of
23 Default and enforce the power of sale under the deed of trust).
24 Additionally, the court has judicially noticed the May 3, 2011,
25 Assignment of Deed of Trust, in which ABC assigned all interest
26 in the Note and Deed of Trust to RCS. (RJN Ex. 6.) This
27 assignment occurred prior to the July 5, 2011, Notice of
28 Trustee's Sale. RCS therefore had authority as the beneficiary

1 under section 2924 to conduct a non-judicial foreclosure of
2 plaintiff's property.²

3 Furthermore, under California law there is no
4 requirement for the production of the original note to initiate a
5 non-judicial foreclosure. Oliver v. Countrywide Home Loans,
6 Inc., No. 09-1381, 2009 WL 3122573, at *3 (E.D. Cal. Sept. 29,
7 2009) (citing Alvara v. Aurora Loan Servs., No. 09-1512, 2009 WL
8 1689640, at *6 (N.D. Cal. Jun. 16, 2009)); Kamp v. Aurora Loan
9 Servs., No. 09-00844, 2009 WL 3177636, at *4, (C.D. Cal. Oct. 1,
10 2009); Putkkuri v. Recontrust Co., No. 08-1919, 2009 WL 32567, at
11 *2 (S.D. Cal. Jan. 5, 2009). Plaintiff's assertion that the
12 foreclosure is illegal because no defendant is in possession of
13 the note therefore fails as a matter of law. Accordingly, the
14 court will grant RSC and Merscorp's motion to dismiss plaintiff's
15 claim under California Civil Code section 2924.³

17 ² The TAC also alleges that the NDSC, which is not a
18 named defendant, filed the Notice of Trustee's Sale. (TAC ¶ 14.)
19 This allegation is corroborated by the Notice of Trustee's Sale,
20 (RJN Ex. 8), which the court has judicially noticed. The listing
21 of NDSC on the Notice of Trustee's Sale is at odds with
22 plaintiff's later allegation that "Defendant RCS is a servicer,
23 and as such, cannot foreclose on Plaintiff's property," (TAC
24 ¶ 58) because it suggests that NDSC, and not RCS, conducted the
25 foreclosure sale.

26 ³ In her claim under section 2924, plaintiff also appears
27 to also raise a claim for unjust enrichment. (See TAC ¶¶ 63-68.)
28 Unjust enrichment is not itself an independent claim for relief.
McKell v. Wash. Mut., Inc., 142 Cal. App. 4th 1457, 1490 (2d
Dist. 2006). The court therefore treats plaintiff's unjust
enrichment argument as the relief requested under her section
2924 claim. A party is required to make restitution "if he or
she is unjustly enriched at the expense of another. A person is
enriched if the person receives a benefit at another's expense."
McBride v. Boughton, 123 Cal. App. 4th 379, 389 (1st Dist. 2004)
(quoting First Nationwide Sav. v. Perry, 11 Cal. App. 4th 1657,
1662 (6th Dist. 1992) (internal quotation mark and citation
omitted)). Because plaintiff fails to state a claim under

1 B. Promissory Estoppel

2 Under California law, a plaintiff alleging a promissory
3 estoppel claim must show: (1) the existence of a promise "clear
4 and unambiguous in its terms"; (2) "reliance by the party to whom
5 the promise is made"; (3) that any reliance was both "reasonable
6 and foreseeable"; and (4) that the party asserting the estoppel
7 was injured by his reliance. US Ecology, Inc. v. State, 129 Cal.
8 App. 4th 887, 901 (4th Dist. 2005) (quoting Laks v. Coast Fed.
9 Sav. & Loan Ass'n, 60 Cal. App. 3d 885, 890 (2d Dist. 1976)).

10 Plaintiff claims that RCS promised that it would not foreclose on
11 her property while it was evaluating her modification
12 application, (TAC ¶¶ 71-72), that she relied on RCS's
13 representation, (id. ¶¶ 72-73), and that RCS breached the
14 agreement by foreclosing on her property before reaching a
15 determination on her modification application, (id. ¶ 74).

16 Here, as the court noted with regard to plaintiff's
17 FAC, plaintiff fails to allege reliance to her detriment.
18 "Detrimental reliance is an essential feature of promissory
19 estoppel." Beck v. Wells Fargo Home Mortg., N.A., No. 10-cv-2150
20 BEN, 2010 WL 5340563, at *2 (S.D. Cal. Dec. 10, 2010).

21 "Detrimental reliance requires a showing that plaintiff has
22 undertaken a sufficient change of position in reliance on
23 defendant's promise." Penny v. NdeX West LLC, No. CV 11-05567-
24 ODW, 2012 WL 589639, at *5 (C.D. Cal. Feb. 22, 2012). Although
25 plaintiff claims that she "relied on the promise" of RCS, she
26 does not state how she would have acted in the absence of RCS's

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28 section 2924, her claim for relief based on unjust enrichment
also fails.

1 promise or how this reliance injured her. Plaintiff is no worse
2 off now than she would have been had RCS first determined not to
3 grant her modification application and then initiated foreclosure
4 proceedings. Accordingly, the court will grant RCS and
5 Merscorp's motion to dismiss plaintiff's claim for promissory
6 estoppel.

7 C. Breach of Contract

8 To state a claim for breach of contract under
9 California law, plaintiffs must allege (1) the existence of a
10 contract; (2) plaintiffs' performance or excuse for
11 nonperformance of the contract; (3) defendants' breach of the
12 contract; and (4) resulting damages. Armstrong Petroleum Corp.
13 v. Tri-Valley Oil & Gas Co., 116 Cal. App. 4th 1375, 1390 (5th
14 Dist. 2004). Plaintiff alleges that defendants were in breach of
15 contract because foreclosing upon plaintiff before reaching a
16 determination under the June 2010 Modification Agreement violated
17 its terms.⁴

18 As in her SAC, plaintiff has once again failed to
19 demonstrate that the Modification Agreement was a valid contract.
20 "The general rule is that if an 'essential element' of a promise
21 is reserved for the future agreement of both parties, the promise
22 gives rise to no legal obligation until such future agreement is
23 made." City of L.A. v. Super. Ct. of L.A. Cnty., 51 Cal. 2d 423,
24 433 (1959) (quoting Ablett v. Clauson, 43 Cal. 2d 280, 284
25 (1954)). Based on this principle, a number of courts have

26
27 ⁴ Plaintiff's claim for breach of contract, although
28 technically new in her TAC, is virtually identical in content to
her claim for anticipatory breach of contract raised in her SAC.
(See SAC ¶¶ 80-89.)

1 dismissed claims based on "agreements to agree." See, e.g.,
2 Grant v. Aurora Loan Servs., Inc., 736 F. Supp. 2d 1257, 1266
3 (C.D. Cal. 2010). However, some courts have held that
4 "agreements to negotiate" are enforceable. See, e.g., Copeland
5 v. Baskin Robbins U.S.A., 96 Cal. App. 4th 1251, 1255-60 (2d
6 Dist. 2002).

7 Plaintiff's allegations that defendants breached their
8 obligations under the modification agreement are deficient for
9 two primary reasons. First, plaintiff may be alleging an
10 unenforceable "agreement to agree" to a loan modification. See
11 City of L.A., 51 Cal.2d at 433. Second, even if the court
12 construes plaintiff's SAC as alleging an "agreement to negotiate"
13 a loan modification and were to hold that such agreements are
14 enforceable, plaintiff has only alleged in conclusory fashion
15 that the parties entered into such an agreement. Plaintiff has
16 once again failed to provide nonconclusory factual content from
17 which the court can plausibly infer that the parties entered into
18 an agreement to negotiate.⁵ See Twombly, 550 U.S. at 570. While
19 plaintiff has detailed a series of interactions with defendants
20 involving plaintiff's loan modification application, (see TAC ¶¶
21 78-88), such facts are only consistent with defendants' liability
22 and do not give rise to plausible entitlement to relief. See

23
24 ⁵ Plaintiff attached a copy of the Modification Agreement
25 to her FAC, but not to her TAC. The agreement notes that "[u]pon
26 your having successfully made all payments under this letter
27 agreement, AHMSI's sole obligation will be to further review and
28 consider your request for a loan modification. There is no
guarantee that your loan modification will be approved"
(FAC Ex. 3.) Because the Modification Agreement was not attached
to the TAC, the court declines to take its content into
consideration for the purposes of deciding defendants' motion to
dismiss the TAC.

1 Iqbal, 556 U.S. 677-78.

2 Plaintiff additionally fails to plead how she was
3 damaged by defendants' alleged breach other than being forced to
4 incur "costs and attorney fees." (TAC ¶ 90.) Accordingly, the
5 court will grant RCS and Merscorp's motion to dismiss plaintiff's
6 claim for breach of contract.

7 D. Quiet Title

8 The purpose of a quiet title action is to establish
9 one's title against adverse claims to real property. California
10 Code of Civil Procedure section 761.020 states that a claim to
11 quiet title requires: (1) a verified complaint, (2) a description
12 of the property, (3) the title for which a determination is
13 sought, (4) the adverse claims to the title against which a
14 determination is sought, (5) the date as of which the
15 determination is sought, and (6) a prayer for the determination
16 of the title. Cal. Civ. Proc. Code § 761.020.⁶

17 The tender rule applies to a quiet title action.
18 Kozhayev v. America's Wholesale Lender, No. CIV S-09-2841, 2010
19 WL 3036001, at *5 (E.D. Cal. Aug. 2, 2010); see also Shimpones v.
20 Stickney, 219 Cal. 637, 649 (1934). A "quiet title action is
21 doomed in the absence of Plaintiffs' tender of the full amount
22 owed." Gjurovich v. California, No. 1:10-cv-01871, 2010 WL
23 4321604, at *8 (E.D. Cal. Oct. 26, 2010). For the first time in
24 these proceedings, plaintiff has alleged in her TAC that she

25 _____
26 ⁶ The court notes that plaintiff's TAC is not in the form
27 of a verified complaint, which is expressly required pursuant to
28 California Code of Civil Procedure section 761.020. As discussed
further below, this omission is indicative of plaintiff's overall
inability or unwillingness to properly plead the causes of action
that she has asserted.

1 "will if requested, tender all sum due." (TAC ¶ 93.)

2 California case law establishes that "[a] full tender
3 must be made to set aside a foreclosure sale, based upon
4 equitable principles." Stebley v. Litton Loan Servicing, LLP,
5 202 Cal. App. 4th 522, 526 (3d Dist. 2011). "[A] mere allegation
6 that Plaintiff has offered to tender is insufficient." Chavers
7 v. GMAC Mortg., LLC, No. 2:11-cv-01097-ODW, 2012 WL 777491, at *1
8 (C.D. Cal. Mar. 9, 2012). "A valid and viable tender means that
9 it is made in good faith, the party making the tender has the
10 ability to perform, and the tender must be unconditional."
11 Alicea v. GE Money Bank, No. C 09-00091 SBA, 2009 WL 2136969, at
12 *3 (N.D. Cal. July 16, 2009); see also Chavers, 2012 WL 777491,
13 at *1 (tender offer must be credible); Cuaresma v. Deutsche Bank
14 Nat'l Co., No. C-11-03829 RMW, 2011 WL 4727805, at *3 (N.D. Cal.
15 Oct. 7, 2011) (same).

16 Plaintiff does not allege that she has made full tender
17 to set aside the foreclosure sale. The fact that plaintiff was
18 seeking approval for loan modification further suggests that she
19 is unable to tender her delinquency of over \$60,000, (RJN Ex. 5),
20 much less the full value of the loan. "[I]f the offeror is
21 without the money necessary to make the offer good and knows it
22 the tender is without legal force or effect." Karlsen v. Am.
23 Sav. & Loan Ass'n, 15 Cal. App. 3d 112, 118 (1971). Accordingly,
24 the court will grant RCS and Merscorp's motion to dismiss
25 plaintiff's claim for quiet title.

26 E. Declaratory Relief

27 Plaintiff's final claim purports to state a cause of
28 action for declaratory relief. Declaratory relief is not an

1 independent cause of action, but rather is a form of relief. See
2 Nat'l Union Fire Ins. Co. v. Karp, 108 F.3d 17, 21 (2d Cir.
3 1997). As such, a claim for declaratory relief is improper
4 where, as here, the claim merely replicates other substantive
5 causes of action asserted in the pleading. Because plaintiff's
6 other claims have been dismissed and declaratory relief is not a
7 cause of action in and of itself, the court must grant RCS and
8 Merscorp's motion to dismiss plaintiff's cause of action for
9 declaratory relief.

10 F. Further Amendments

11 While leave to amend must be freely given, the court is
12 not required to permit futile amendments. See DeSoto v. Yellow
13 Freight Sys., Inc., 957 F.2d 655, 658 (9th Cir. 1992); Reddy v.
14 Litton Indus., Inc., 912 F.2d 291, 296-97 (9th Cir. 1990); Rutman
15 Wine Co. v. E. & J. Gallo Winery, 829 F.2d 729, 738 (9th Cir.
16 1987); Klamath-Lake Pharm. Ass'n v. Klamath Med. Serv. Bureau,
17 701 F.2d 1276, 1293 (9th Cir. 1983). In its November 22, 2011,
18 and January 26, 2012, Orders, the court explicitly advised
19 plaintiff of the pleading defects in her FAC and SAC and how to
20 rectify them, and gave plaintiff the opportunity to file a TAC.
21 As explained above, plaintiff's TAC fails to correct these
22 defects.

23 It is evident that further amendment will not help
24 plaintiff satisfy applicable pleading standards in her claims
25 against defendants. As the deficiencies that the court pointed
26 out in its previous Orders remain uncorrected, the court can only
27 conclude that plaintiff is either unwilling or unable to properly
28 plead the causes of action she has asserted. Cf. Garcia ex rel.

1 Marin v. Clovis Unified Sch. Dist., No. 08-1924, 2009 WL 2982900,
2 at *9 (E.D. Cal. Sept. 14, 2009). Plaintiff's unwillingness is
3 further evidenced by the content of her opposition to defendants'
4 motion to dismiss, which largely discusses claims that are not
5 pleaded in the TAC and fails to address three of her claims
6 entirely. Dismissal without leave to amend is therefore
7 appropriate.

8 III. Sanctions

9 After prompting by this court, plaintiff filed her
10 papers in opposition to the defendants' motion to dismiss on
11 April 24, 2012. According to Local Rule 230(c), opposition to
12 the granting of a motion must be filed and served not less than
13 fourteen days preceding the noticed hearing date. As the hearing
14 for this matter was set for May 7, 2012, plaintiff filed her
15 papers one day late. This is the third time that plaintiff has
16 failed to timely file her opposition and the court previously
17 noted plaintiff's tardiness in its January 26, 2012, Order. (See
18 Jan. 26, 2012, Order at 18 (Docket No. 22).) Plaintiff's
19 unwillingness to comply with the Local Rules is both
20 disrespectful of this court's time and further suggests that
21 plaintiff lacks interest in prosecuting her claims.

22 Local Rule 110 authorizes the court to impose sanctions
23 for "[f]ailure of counsel or of a party to comply with these
24 Rules." Therefore, the court will sanction plaintiffs' counsel,
25 Gregory Harper, \$200.00 payable to the Clerk of the Court within
26 ten days from the date of this Order, unless he shows good cause
27 for his failure to comply with the Local Rules.

28 IT IS THEREFORE ORDERED that RCS and Merscorp's motion

1 to dismiss be, and the same hereby is, GRANTED; and this action
2 is hereby DISMISSED WITH PREJUDICE as against Residential Credit
3 Solutions, Inc. and Merscorp, Inc. dba Mortgage Electronic
4 Registration System, Inc. and as nominee for American Brokers
5 Conduit and American Home Mortgage Servicing, Inc.

6 IT IS FURTHER ORDERED that within ten days of this
7 Order Gregory Harper shall either (1) pay sanctions of \$200.00 to
8 the Clerk of the Court, or (2) submit a statement of good cause
9 explaining his failure to comply with Local Rule 230(c).

10 DATED: May 2, 2012

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12 WILLIAM B. SHUBB
13 UNITED STATES DISTRICT JUDGE
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