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

EMERSON A. DOMINGUEZ,

Plaintiff,

No. 2:12-cv-0579 MCE CKD PS

vs.

JPMORGAN CHASE BANK, et al.

FINDINGS AND RECOMMENDATIONS

Defendants.

\_\_\_\_\_/

Plaintiff filed the instant action against numerous defendants, including lenders and a title company, on March 5, 2012 asserting claims of fraud, violation of the Truth in Lending Act (“TILA”), violation of California’s Rosenthal Fair Debt Collection Practices Act, violation of the Real Estate Settlement Procedures Act (“RESPA”), breach of fiduciary duty, violations of Cal. Bus. & Prof. Code § 17200, breach of the implied covenant of good faith and fair dealing, negligence, and quiet title. (See Dkt. No. 1.) Plaintiff paid the filing fee and is proceeding pro se. The action was referred to the undersigned pursuant to E.D. Cal. L.R. 302(c)(21) and 28 U.S.C. § 636(b)(1).

The court’s March 5, 2012 order, issued to plaintiff along with the process papers at the intake counter that same day, directed plaintiff to complete service of process on

1 defendants within 120 days, i.e. by July 3, 2012. (Dkt. No. 3 at 1.) Plaintiff was cautioned that  
2 the action may be dismissed if service of process is not accomplished within 120 days from the  
3 date that the complaint was filed. (Id.); see also Fed. R. Civ. P. 4(m). The court's March 5, 2012  
4 order also sets a status conference for August 8, 2012 at 10:00 a.m. (Dkt. No. 3 at 2.) It further  
5 ordered the parties to file status reports addressing various matters not later than fourteen (14)  
6 days prior to the status conference, i.e. by July 25, 2012. (Dkt. No. 3 at 2-3.) Additionally, the  
7 order cautioned that "[f]ailure to comply with the Federal Rules of Civil Procedure or Local  
8 Rules of Practice for the United States District Court, Eastern District of California, or orders of  
9 this court, may result in dismissal of this action" and that "[e]ven parties without counsel will be  
10 expected to comply with the procedural rules." (Dkt. No. 3 at 2.)

11           There has been no docket activity since the complaint was filed and process issued  
12 on March 5, 2012. This suggests that the defendants have not been served with process in this  
13 matter, especially given that some are relatively large companies that would likely retain counsel  
14 and respond to the complaint. Furthermore, no status reports were filed to date, and neither  
15 plaintiff nor any defendants appeared at the status conference. Therefore, the court concludes  
16 that, in addition to failure to comply with various court orders, plaintiff has abandoned  
17 prosecution of this case.

18           Accordingly, for the reasons outlined above, IT IS HEREBY RECOMMENDED  
19 that:

- 20           1. The action be DISMISSED WITH PREJUDICE pursuant to Fed. R. Civ. P.  
21 41(b) for failure to comply with court orders and failure to prosecute the case.
- 22           2. The Clerk of Court be directed to close this case.

23           These findings and recommendations are submitted to the United States District  
24 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen  
25 (14) days after being served with these findings and recommendations, plaintiff may file written  
26 objections with the court and serve a copy on all parties. Such a document should be captioned

1 “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that  
2 failure to file objections within the specified time may waive the right to appeal the District  
3 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

4 Dated: August 9, 2012

5   
6 CAROLYN K. DELANEY  
7 UNITED STATES MAGISTRATE JUDGE

8  
9 CKD/5  
10 Dominguez.579.fr.wpd