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

AMANDA U. AJULUCHUKU,

Plaintiff,

No. 2:12-cv-02172-GEB-KJN PS

vs.

CITIBANK,

Defendant.

ORDER

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On August 20, 2012, plaintiff Amanda Ajuluchuku (“plaintiff”) filed a Complaint (Compl., Dkt. No. 1) and an Application to Proceed In Forma Pauperis (the “IFP Application”) (Dkt. No. 2).

Defendant Citibank (“Citibank”) has filed a Motion to Dismiss the Complaint. (Motion, Dkt. No. 4.) Citibank set the motion to be heard on December 6, 2012. (Dkt. Nos. 4, 6.) However, the Complaint has not yet been screened pursuant to 28 U.S.C. § 1915. Similarly, no determination has yet been made with respect to plaintiff’s IFP Application. Citibank has not yet been served with process; if such service was effectuated, the court’s electronic docket does not reflect it.

Given plaintiff’s status as a litigant proceeding without counsel and in forma pauperis in this case , the pleading first needs to be screened by the undersigned pursuant to 28


1 U.S.C. § 1915. Thereafter, should the pleading surpass the screening phase, the United States  
2 Marshal will be ordered to effectuate service of that pleading upon the named defendant(s).  
3 After such service occurs, Citibank and/or other defendants may respond by filing responsive  
4 pleadings or motions to dismiss. Until that time, however, Citibank's motion is premature.

5 For the reasons stated above, IT IS HEREBY ORDERED that:

6 Accordingly, the undersigned denies Citibank's Motion to Dismiss (Motion, Dkt.  
7 No. 4) without prejudice at this time, and vacates the hearing date currently set in connection  
8 with that motion. If the undersigned orders that the complaint be served after screening it  
9 pursuant to 28 U.S.C. § 1915, Citibank may re-file its motion to dismiss after being served with  
10 process.

11 IT IS SO ORDERED.

12 DATED: November 8, 2012

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15 KENDALL J. NEWMAN  
16 UNITED STATES MAGISTRATE JUDGE  
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