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

ASHIT ZINZUWADIA,

Plaintiff,

No. 2:12-cv-02281-KJM-KJN

vs.

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.,  
et al.,

Defendants.

ORDER

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On September 6, 2012, plaintiff Ashit Zinzuwadia (“plaintiff”) filed a Complaint (Compl., Dkt. No. 1) and an Application to Proceed In Forma Pauperis (the “IFP Application”) (Dkt. No. 2).

Defendant American Mortgage Network, Inc. (“American”) has filed a Motion to Dismiss the Complaint. (Motion, Dkt. No. 3.) American set the motion to be heard on November 1, 2011. (Id.) 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. Neither American nor any of the four other named defendants have yet been served with process; if such service was effectuated, the court’s electronic docket does not reflect it.

1           Given plaintiff's status as a litigant proceeding without counsel and in forma  
2 pauperis, the pleading in this case first needs to be screened by the undersigned pursuant to 28  
3 U.S.C. § 1915. Thereafter, should the pleading surpass the screening phase, the United States  
4 Marshall will be ordered to effectuate service of that pleading upon the defendants. After such  
5 service occurs, the defendants may respond by filing responsive pleadings or motions to dismiss.  
6 Until that time, however, American's motion is premature.

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

8           Accordingly, the undersigned denies American's Motion to Dismiss (Motion, Dkt.  
9 No. 3) without prejudice at this time, and vacates the hearing date currently set in connection  
10 with that motion. If the undersigned orders that the complaint be served after screening it  
11 pursuant to 28 U.S.C. § 1915, American may re-file its motion to dismiss after being served with  
12 process.

13           IT IS SO ORDERED.

14 DATED: October 17, 2012

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17           KENDALL J. NEWMAN  
18           UNITED STATES MAGISTRATE JUDGE  
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