

1  
2  
3  
4  
5  
6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 HERBERT E. MILLER,

11 Plaintiff,

No. 2:12-cv-2697 GEB GGH PS

12 vs.

13 CITIMORTGAGE, INC., et al.,

14 Defendants.

FINDINGS & RECOMMENDATIONS

15 \_\_\_\_\_ /  
16 This action was referred to the undersigned pursuant to Local Rule 302(c)(21).  
17 On March 15, 2013, plaintiff was ordered to show cause within fourteen days for his failure to  
18 serve defendant Republic with summons. At that time, plaintiff was advised that failure to  
19 respond to the order would result in a recommendation that this defendant be dismissed. Plaintiff  
20 did not respond to the order to show cause. There is no record that defendant Republic Mortgage  
21 Home Loans, LLC ("Republic") has been served with the complaint. (Dkt. no. 1.) Pursuant to  
22 Federal Rule of Civil Procedure 4(m), the court may dismiss an action where service of summons  
23 is not made within 120 days after the filing of the complaint. This action was filed on September  
24 27, 2012 in state court, and plaintiff has not yet served defendant Republic with summons.

25 Accordingly, IT IS RECOMMENDED that defendant Republic be dismissed from  
26 this action.

1           These findings and recommendations are submitted to the United States District  
2 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
3 fourteen (14) days after being served with these findings and recommendations, any party may  
4 file written objections with the court and serve a copy on all parties. Such a document should be  
5 captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to  
6 the objections shall be served and filed within seven (7) days after service of the objections. The  
7 parties are advised that failure to file objections within the specified time may waive the right to  
8 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 DATED: June 6, 2013

10  
11                               /s/ Gregory G. Hollows  
                              UNITED STATES MAGISTRATE JUDGE

12  
13 GGH:076/Miller2697.fr.4m.wpd  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26