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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HERBERT MILLER,
Plaintiff,
v.
BAYVIEW LOAN SERVICING, LLC, et
al.,
Defendants.

No. 2:17-cv-0136-JAM-KJN PS

ORDER

On February 13, 2017, plaintiff filed a request for court approval of a notice of lis pendens. (ECF No. 9.)

Thereafter, on March 16, 2017, defendant Bayview Loan Servicing, LLC (“Bayview”) specially appeared and filed an objection to plaintiff’s request. (ECF No. 14.) In the objection, Bayview’s counsel indicates that he has executed a waiver of service; that Bayview’s responsive pleading is due May 1, 2017; and that Bayview intends to file a Rule 12(b)(6) motion to dismiss on or before that date. (Id.) Bayview contends that the court should deny plaintiff’s request for a lis pendens as based on unsupported allegations, or in the alternative, should defer ruling on the request until consideration of Bayview’s Rule 12(b)(6) motion.

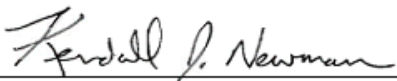
In light of the limited record, the court defers ruling on plaintiff’s request at this juncture. As part of its Rule 12(b)(6) motion, Bayview shall address, by reference to legal authority and

1 argument, plaintiff's request for approval of a notice of lis pendens. Plaintiff shall also, as part of
2 his opposition to Bayview's Rule 12(b)(6) motion, respond to Bayview's arguments concerning
3 the notice of lis pendens. Thereafter, the court will resolve plaintiff's request.

4 Accordingly, ruling on the request for approval of a notice of lis pendens is DEFERRED
5 in accordance with the terms of this order.

6 IT IS SO ORDERED.

7 Dated: March 17, 2017

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10 KENDALL J. NEWMAN
11 UNITED STATES MAGISTRATE JUDGE
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