

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

SERGIO B. CORDOVA,  
Plaintiff(s),

No. C 08-5728 MEJ

vs.

**ORDER FOR CLERK OF COURT TO  
REASSIGN CASE**

AMERICA'S SERVICING CO., et al.,  
Defendant(s).

**REPORT & RECOMMENDATION**

On November 26, 2008, Plaintiff Sergio B. Cordova commenced Case No. HG08422317 in the Alameda County Superior Court, alleging unfair debt collection practices, predatory lending practices, and RICO violations. (Dkt. #1, Ex. A.) Defendants Wells Fargo Bank dba America's Servicing Company and U.S. Bank National Association subsequently removed the case to this Court on December 23, 2008. (Dkt. #1.)

On December 30, 2008, Defendant America's Servicing Company filed a Motion to Dismiss, with a noticed hearing date of February 12, 2009. (Dkt. ## 5, 7.) Pursuant to Civil Local Rule 7, any opposition to Defendant's motion was due by January 22, 2009. Plaintiff failed to file any opposition. Further, on January 5, 2009, the Court ordered the parties to either consent or decline magistrate jurisdiction by January 22, 2009. (Dkt. #11.) Plaintiff also failed to comply with this deadline. Based on Plaintiff's inaction, the Court vacated the February 12, 2009 hearing date and

1 ordered Plaintiff to show cause why this case should not be dismissed for failure to prosecute and  
2 comply with court deadlines. The Court ordered Plaintiff to file a declaration by February 12, 2009,  
3 and scheduled an order to show cause hearing on February 26, 2009. (Dkt. #14.)

4 On February 26, 2009, the Court held an order to show cause hearing. Plaintiff made no  
5 appearance at the hearing and failed to file a declaration by the February 12 deadline. Based on this  
6 procedural history, the Court finds it appropriate to dismiss this case pursuant to Federal Rule of  
7 Civil Procedure 41(b). Accordingly, because Plaintiff has yet to consent to the undersigned's  
8 jurisdiction, the Court hereby ORDERS the Clerk of Court to reassign this case to a district court  
9 judge. The undersigned RECOMMENDS that the newly-assigned judge dismiss this case for failure  
10 to prosecute and failure to comply with the Court's deadlines and orders.

11 Pursuant to Federal Rule of Civil Procedure 72, any party may serve and file objections to  
12 this Report and Recommendation within 10 days after being served.

13 **IT IS SO ORDERED.**

14  
15 Dated: February 26, 2009

  
\_\_\_\_\_  
16 MARIA-ELENA JAMES  
17 United States Magistrate Judge  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3 UNITED STATES DISTRICT COURT  
4 FOR THE  
5 NORTHERN DISTRICT OF CALIFORNIA

6 SERGIO B. CORDOVA,

Case Number: CV08-5728 MEJ

7 Plaintiff(s),

**CERTIFICATE OF SERVICE**

8 vs.

9 AMERICA'S SERVICING CO., et al.,

10 Defendant.

11 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
12 Court, Northern District of California.

13 That on February 26, 2009, I SERVED a true and correct copy(ies) of the attached, by placing  
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office  
16 delivery receptacle located in the Clerk's office.

17 Homan Mobasser  
18 M.W. Roth, PLC  
19 13245 Riverside Drive  
20 Suite 320  
21 Sherman Oaks , CA 91423

22 Dated: February 26, 2009

23 Richard W. Wieking, Clerk  
24 By: Brenda Tolbert, Deputy Clerk  
25  
26  
27  
28