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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 RODOLFO VELASQUEZ,

No. C 10-01641 SI

9 Plaintiff,

**ORDER DENYING MOTION FOR
RECONSIDERATION**

10 v.

11 CHASE HOME FINANCE LLC, FANNIE
12 MAE,

13 Defendants.
14 _____/

15 On August 12, 2010, the Court granted defendants' motion to dismiss plaintiff's First Amended
16 Complaint. The Court granted plaintiff leave to amend his complaint with respect to most of plaintiff's
17 claims, but dismissed plaintiff's claim for "discrimination against homeowner" with prejudice. The
18 Court did not give Mr. Velasquez leave to amend the discrimination claim because the facts asserted
19 – that defendants offered to sell his home in a short sale for \$70,000, but defendants refused to reduce
20 plaintiff's loan amount to \$70,000 – could not state a claim for "discrimination."

21 On August 19, 2010, plaintiff filed a motion for reconsideration of the dismissal of his
22 discrimination claim.¹ On September 3, 2010, defendants filed a opposition to that motion for
23 reconsideration. On September 14, 2010, plaintiff filed a reply in support of his motion for
24 reconsideration.

25 In the motion for reconsideration, plaintiff again argues that his claim of discrimination is based
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27 ¹ Under this Court's local rules plaintiff is not allowed to file a motion for reconsideration
28 without permission of the Court. *See* Civ. Local Rule 7-9. Moreover, Mr. Velasquez does not cite new
evidence or case law in support of his motion, or show that the Court misunderstood the facts that his
claim for discrimination was based on. Nonetheless, as Mr. Velasquez is proceeding *pro se*, the Court
will review his motion for reconsideration on the merits.

1 on defendants' refusal to make the property at issue available to Mr. Velasquez through a \$70,000
2 mortgage when defendants were willing to conduct a short sale of the home for \$70,000 to Salvador
3 Meza. Compare FAC ¶¶ 36-43 with Motion for Reconsideration at 4:16-20. Plaintiff relies on the Fair
4 Housing Act's ("FHA," 42 U.S.C. § 3601) prohibition of discrimination in the sale, rental or advertising
5 of property. Plaintiff also relies on the Equal Credit Opportunity Act ("ECOA," 15 U.S.C. § 1691 *et*
6 *seq.*) which prohibits discrimination based on race or color, religion, national origin, sex, marital status,
7 age, and disability. See Motion at 4-5; Reply at 3-5.

8 However, the fact that defendants were willing to sell the house in a short sale for \$70,000 –
9 which would result in cash-in-hand to defendants and avoid the need for future litigation or negotiations
10 with plaintiff – and the fact that defendants are not willing to give Mr. Velasquez a \$70,000 mortgage
11 on his home – which would represent a substantial reduction in the principal he currently owes – cannot
12 support a claim for discrimination. Plaintiff does not allege any facts that would support a claim that
13 defendants discriminated against him on any of the bases prohibited by the FHA or ECOA, *e.g.*, national
14 origin, sex, marital status, etc. Mr. Velasquez does not allege any facts that show that defendants'
15 policy or practice of refusing to grant principal reductions of the nature and amount sought by plaintiff,
16 has a disparate impact on any protected group that Mr. Velasquez is a member of. In sum, that
17 defendants were willing to take a short sale on the property at issue, but were not willing reduce Mr.
18 Velasquez's mortgage principal from \$162,000 to \$70,000, *cannot* state a claim for discrimination under
19 the FHA or ECOA as a matter of law.

20 For the foregoing reasons, plaintiff's motion for reconsideration is DENIED.

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23 **IT IS SO ORDERED.**

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25 Dated: September 14, 2010

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SUSAN ILLSTON
United States District Judge