

United States District Court  
For the Northern District of California

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

JOSE CONTRERAS,  
Plaintiff,

No. C 11-00068 CRB

**ORDER**

v.

BANK OF AMERICA, ET AL,  
Defendants.

Plaintiff filed this action in January 2011. Dkt. 1. Judge Fogel granted Defendants' Motion to Dismiss on August 23, 2011 and ordered that Plaintiff amend the Complaint within thirty days. Dkt. 24. Plaintiff failed to file an amended complaint. On October 18, 2011, Defendants filed a Motion to Dismiss for failure to prosecute pursuant to Fed. R. Civ. P. 41(b) due to Plaintiff's failure to file an amended complaint. Dkt. 30. This Court ordered Plaintiff to show cause why his case should not be dismissed for failure to prosecute under Federal Rule of Civil Procedure 41(b) by Monday, November 28, 2011. On Monday, November 28, 2011, Plaintiff responded by filing an Amended Complaint. The Court will construe the Amended Complaint additionally as a response to the OSC, that while sparse and untimely, the Court will accept.

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The parties shall treat the Amended Complaint as the operative complaint. Therefore, Defendants' Motion to Dismiss for Failure to Prosecute is DENIED as moot.

**IT IS SO ORDERED.**

Dated: November 29, 2011



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE