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

BERNARD MITCHELL,

No. C 11-3577 JSW

Plaintiff,

**ORDER ON EX PARTE  
APPLICATIONS**

v.

ROUTH CRABTREE AND OLSEN, PS, et al.,

**(Docket Nos. 63, 71)**

Defendants.

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On November 13, 2012, Plaintiff, Bernard S. Mitchell (“Mr. Mitchell”), filed an *ex parte* application for relief from the order and judgment issued on July 9, 2012. (Docket No. 63.) On January 25, 2013, Defendants OneWest Bank, FSB (“OneWest”) and Deutsche Bank National Trust Company (“Deutsche Bank”) filed an *ex parte* application for leave to file a supplemental opposition to Plaintiff’s *ex parte* application. The Court has considered the parties’ papers, relevant legal authority, the record in this case, and, where necessary and appropriate, the record in related cases, finds the applications suitable for disposition without oral argument, and VACATES the hearing scheduled for March 8, 2013.

In his *ex parte* application, which is, in essence, a motion for relief from Judgment, pursuant to Federal Rule of Civil Procedure 60(b). However, Mr. Mitchell does not ask that the Court re-open this case. Rather, he asks that the Court deem his Notice of Voluntary Dismissal to be legally ineffective as to OneWest, Deutsche Bank and Regional and asks that the Court find that it “shall not operate as an adjudication on the merits pursuant to” Rule 41(a) or 41(b) in *Bernard S. Mitchell, et al. v. Regional Trust Services Corporation, et al.*, 12-CV-5547-JSW

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("Mitchell IV"). (Docket No. 63 at 4:4-8.) In their application, OneWest and Deutsche Bank ask that they be permitted to file a substantive opposition to Mr. Mitchell's arguments about why he is entitled to relief under Rule 60(b).

In light of the Court's Order, issued this date, in *Mitchell IV*, the Court DENIES AS MOOT the parties' applications.

**IT IS SO ORDERED.**

Dated: February 12, 2013

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE