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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER JAMAR SUMMERS,

No. C 11-04147 WHA

Plaintiff,

v.

**ORDER DISMISSING ACTION
FOR FAILURE TO PROSECUTE**WELLS FARGO BANK NA, *et al*,Defendants.
_____ /

Under FRCP 41(b), if a plaintiff fails to prosecute his case or to comply with a court order, his action may be dismissed for failure to prosecute. Plaintiff, acting pro se, filed this action claiming RICO violations and fraud related to defendants' unlawful detainer action against plaintiff in the Marin County Superior Court and his subsequent eviction. Plaintiff filed the initial and first amended complaints in August 2011 (Dkt. Nos. 1, 6). Plaintiff then requested and was granted leave to file a second amended complaint (Dkt. No. 16). Plaintiff never filed his second amended complaint. In October 2011, an order was issued to remind plaintiff to file his second amended complaint (Dkt. No. 19). Plaintiff did not respond. Plaintiff's operative complaint was incomprehensible and failed to state a legal cause of action.

Defendant Wells Fargo moved to dismiss the complaint, and a hearing on the motion was noticed for December 15, 2011 (Dkt. No. 20). Plaintiff, however, failed to file an opposition to the motion pursuant to Civil Local Rule 7-3. An order dated November 17, 2011, warned plaintiff that his opposition brief was past due and set a new deadline by which plaintiff was permitted to

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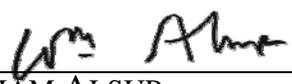
file the opposition brief: December 1 (Dkt. No. 23). The order also warned plaintiff that if he failed to respond, defendant's motion may be granted as unopposed.

To date, plaintiff has yet to file an opposition brief or to request leave to file a late brief; he has not responded to defendant's motion or the Court's order in any way. Furthermore, plaintiff failed to show up at today's case management conference.

Plaintiff has failed to prosecute his case. This action will be **DISMISSED FOR FAILURE TO PROSECUTE WITHOUT LEAVE TO AMEND. The CLERK SHALL CLOSE THE FILE.**

IT IS SO ORDERED.

Dated: December 8, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE