

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

ANTONIO DE LEON,

No. C 11-5229 SI

Plaintiff,

**ORDER REFERRING CASE TO ADR
UNIT FOR ASSESSMENT TELEPHONE
CONFERENCE**

BANK OF AMERICA, *et al.*,

Defendants.

On September 19, 2011, plaintiff filed a complaint against defendants Bank of America, BAC Home Loans Servicing and FRLAP, Inc. in the Superior Court of California, County of Marin. Plaintiff alleges that defendants engaged in a variety of unfair and fraudulent behavior with respect to a mortgage loan initiated in 2004. Defendants thereafter removed this case to this Court based on diversity jurisdiction in accordance with 12 U.S.C. § 1332. *See* Doc. 1 at 2.

On November 2, 2011, defendants filed a motion to dismiss plaintiff's complaint. A hearing is scheduled for the motion on January 27, 2012. The hearing set for January 27, 2012 is hereby VACATED. Pursuant to Civil Local Rule 16-8 and ADR Local Rule the Court refers this foreclosure-related action to the Alternative Dispute Resolution (ADR) Unit for a telephone conference to assess this case's suitability for mediation or a settlement conference. Plaintiff's and defendants' counsel shall participate in a telephone conference, to be scheduled by the ADR Unit as soon as possible, but no later than **January 27, 2012**.

In preparation for the telephone conference, plaintiff shall do the following:

(1) Review relevant loan documents and investigate the claims to determine whether they have merit.

- 1 (2) If plaintiff is seeking a loan modification to resolve all or some of the claims,
2 plaintiff shall prepare a current, accurate financial statement and gather all of the
3 information and documents customarily needed to support a loan modification
4 request. Further, plaintiff shall immediately notify defendants' counsel of the
5 request for a loan modification.
- 6 (3) Provide counsel for defendants with information necessary to evaluate the
7 prospects for loan modification, in the form of a financial statement, worksheet
8 or application customarily used by financial institutions.

9 In preparation for the telephone conference, counsel for defendants shall do the following.

- 10 (1) If defendants are unable or unwilling to do a loan modification after receiving
11 notice of plaintiff's request, counsel for defendants shall promptly notify plaintiff
12 to that effect.
- 13 (2) Arrange for a representative of each defendant with full settlement authority to
14 participate in the telephone conference.

15 The ADR Unit will notify the parties of the date and time the telephone conference will be held.

16 After the telephone conference, the ADR Unit will advise the Court of its recommendation for further
17 ADR proceedings. The Court will not reset defendants' motion to dismiss for hearing until after it
18 receives the recommendations from the ADR Unit.

19 **IT IS SO ORDERED.**

20 Dated: December 19, 2011



21 SUSAN ILLSTON
22 United States District Judge