

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

DAVID G. SPENCE,

No. C 11-05404 SI

Plaintiff,

V.

CITIMORTGAGE INC.,

**ORDER RE: MOTION TO DISMISS;
REFERRED CASE TO ADR UNIT FOR
EARLY COURT-CONNECTED
MEDIATION AFTER ASSESSMENT
TELEPHONE CONFERENCE**

Defendant.

On November 7, 2011, plaintiff filed a complaint against defendant CitiMortgage, Inc. Plaintiff asserts a number of causes of action based on allegations that CitiMortgage Inc. represented to plaintiff that he could secure a loan modification if he went into default on his mortgage and then made trial plan payments. Plaintiff alleges he complied with all necessary steps, but that CitiMortgage nonetheless foreclosed on his house. On November 29, 2011, CitiMortgage filed a motion to dismiss plaintiff's complaint and that motion is set to be heard on January 6, 2012.

The Court finds that this case raises significant issues of law and fact and is suitable for referral to the Court's Alternative Dispute Resolution (ADR) Unit pursuant to Civil Local Rule 16-8 and ADR Local Rule 2-3. The ADR Unit shall conduct an initial assessment telephone conference on or before December 16, 2011. If the ADR Unit finds the case suitable and if appropriate, it shall schedule a court-connected mediation to be completed on or before January 31, 2012. If the ADR unit finds this case not suitable or appropriate for court-connected mediation, the Unit shall refer the case back to the Court for further proceedings.

Plaintiff's and defendant's counsel shall be prepared to discuss the following subjects at the assessment telephone conference:

- (1) Identification and description of claims and alleged defects in loan documents.
- (2) Prospects for loan modification.
- (3) Prospects for settlement.

The parties need not submit written materials to the ADR Unit for the telephone conference. In preparation for the telephone conference, counsel for defendant shall arrange for a representative of defendant with full settlement authority to participate in the telephone conference.

The ADR Unit will notify the parties of the date and time the telephone conference will be held. After the telephone conference, the ADR Unit will advise the Court as to the status.

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The hearing on the motion to dismiss, and all related filing deadlines, are hereby VACATED pending the ADR Unit's telephone assessment and, if applicable, the court-connected mediation.

IT IS SO ORDERED.

Dated: November 30, 2011

Susan Illston
SUSAN ILLSTON
United States District J