

1
2
3
4
5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7

8 SALVADOR CENTENO,

No. C 11-05480 SI

9 Plaintiff,

**ORDER RE: MOTION TO DISMISS;
REFERRING CASE TO ADR UNIT FOR
ASSESSMENT TELEPHONE
CONFERENCE**

10 v.

11 ONEWEST BANK et al.,

12 Defendants.
13 _____/

14 On September 9, 2011, plaintiff filed a complaint against defendants OneWest Bank and
15 Mortgage Electronic Registration Systems, Inc. in the Superior Court of California, County of Alameda.
16 Plaintiff alleges that defendants engaged in a variety of unfair and fraudulent behavior with respect to
17 a mortgage loan initiated in 2006. Defendants thereafter removed this case to this Court in accordance
18 with 12 U.S.C. § 1331. *See* Doc. 1 at 2.

19 On November 17, 2011, defendants filed a motion to dismiss plaintiff's complaint. A hearing
20 is scheduled for the motion on December 27, 2011. The hearing set for December 27, 2011 is hereby
21 VACATED. Pursuant to Civil Local Rule 16-8 and ADR Local Rule 2-3, the Court refers this
22 foreclosure-related action to the Alternative Dispute Resolution (ADR) Unit for a telephone conference
23 to assess this case's suitability for mediation or a settlement conference. Plaintiffs and defendants'
24 counsel shall participate in a telephone conference, to be scheduled by the ADR Unit as soon as possible
25 but no later than **January 6, 2012**.

26 Plaintiff's and defendants' counsel shall be prepared to discuss the following subjects:

- 27 (1) Identification and description of claims and alleged defects in loan
28 documents.

- 1 (2) Prospects for loan modification.
- 2 (3) Prospects for settlement.

3 The parties need not submit written materials to the ADR Unit for the telephone
4 conference.

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

- 6 (1) Review relevant loan documents and investigate the claims to
7 determine whether they have merit.
- 8 (2) If plaintiff is seeking a loan modification to resolve all or some of the
9 claims, plaintiff shall prepare a current, accurate financial statement
10 and gather all of the information and documents customarily needed to
11 support a loan modification request. Further, plaintiff shall
12 immediately notify defendants' counsel of the request for a loan
13 modification.
- 14 (3) Provide counsel for defendants with information necessary to evaluate
15 the prospects for loan modification, in the form of a financial
16 statement, worksheet or application customarily used by financial
17 institutions.

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

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

25 The ADR Unit will notify the parties of the date and time the telephone conference
26 will be held. After the telephone conference, the ADR Unit will advise the Court of its
27 recommendation for further ADR proceedings. The Court will not reset defendants' motion
28 to dismiss for hearing until after it receives the recommendations from the ADR Unit.

IT IS SO ORDERED.

Dated: December 19, 2011



SUSAN ILLSTON
United States District Judge