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

LLOYD F. BENSON, III,

Plaintiff,

v.

CITIBANK, N.A., et al.,

Defendants.

Case No.: 12-cv-760 JSC

ORDER RE: SCHEDULE FOR DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S THIRD AMENDED COMPLAINT (Dkt. No. 63)

Now pending before the Court is Defendants' Motion to Dismiss Plaintiff's Third Amended Complaint. (Dkt. No. 63.) Plaintiff, who is represented by counsel, failed to timely file an Opposition or Statement of Non-Opposition to the Motion to Dismiss, as required by Local Rule 7-3(b). Further, Plaintiff failed to respond to an Order to Show Cause as to why the case should not be dismissed for failure to prosecute based on his failure to respond to the motion to dismiss. (Dkt. No. 64.) The matter was set for hearing today, August 29, 2013, and counsel for both Plaintiff and Defendants appeared. Counsel for Plaintiff stated that because the parties are close to settlement she elected not to respond to the Court's Orders. As the Court stated on the record, counsel's decision not to do so placed her client in serious jeopardy of having his case dismissed for failure to prosecute.

Nevertheless, given the parties' expressed mutual desire to attempt to finalize their efforts to settle this matter, the Court will hold the motion to dismiss in abeyance. On or before September 6, 2013, the parties shall file a joint statement indicating that the matter has been settled. If no such submission is made by September 6, 2013, Plaintiff's opposition to the motion to dismiss is due September 13, 2013. Defendants shall have until September 20, 2013 to file a reply and as of that date the matter will be deemed submitted.

IT IS SO ORDERED.

Dated: August 29, 2013

Jacqueline S. Corley

JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE

United States District Court
Northern District of California