

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

9 JASON COBB,

No. C 13-01955 JSW

10 Plaintiff,

**ORDER DENYING MOTION TO
DISMISS FILED BY
DEFENDANTS NERIO AND
FADEM WITHOUT PREJUDICE**

11 v.

12 JPMORGAN CHASE, et al.,

13 Defendants.
14 _____/

15 On August 30, 2013, Defendants Ron Nerio and BJ Fadem filed a motion to dismiss for
16 failure to state a claim, which is noticed for hearing on November 15, 2013. (Docket No. 153.)
17 On October 4, 2013, the Court issued an Order in which it noted that although the notice of the
18 motion refers to a memorandum of points and authorities, it did not appear that Defendants
19 actually e-filed that document. The Court also noted that it had not received a chambers copy
20 of the motion or the memorandum of points and authorities.

21 Because Plaintiff opposed the motion and responded to arguments that Defendants
22 appeared to have raised in their memorandum of points and authorities, the Court directed
23 Defendants to electronically file the memorandum of points and authorities by October 11,
24 2013. Because Plaintiff had opposed the motion, the Court stated that Plaintiff should not file a
25 new opposition, and because Defendants had not filed a reply within the time allowed by the
26 Northern District Civil Local Rules, the Court stated that a reply would not be permitted.

27 Defendants failed to file their memorandum of points and authorities by October 11,
28 2013. Accordingly, on October 15, 2013, the Court granted Defendants one **final** opportunity
to

1 electronically file the memorandum of points and authorities in support of their motion to
2 dismiss, and it Ordered Defendants Fadem and Nerio to electronically file their memorandum
3 by 12:00 p.m. on Wednesday, October 16, 2013. The Court also advised Defendants that if they
4 failed to file their memorandum of points and authorities by 12:00 p.m. on October 16, 2013,
5 the Court shall deny the motion without prejudice.

6 Defendants failed to comply with the Court's deadline. Accordingly, the Court DENIES
7 their motion to dismiss (Docket No. 153) without prejudice to re-filing it in accordance with
8 Northern District Civil Local Rule 7. The Court VACATES the hearing scheduled for
9 November 15, 2013.

10 **IT IS SO ORDERED.**

11 Dated: October 16, 2013



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE