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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

AURELIO T. DAMIAN, an individual,

No. C 08-04034 SBA

Plaintiff,

ORDER

v.

[Docket No. 13]

CHASE BANK USA, N.A., *et al.*,

Defendants.

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The hearing set for February 3, 2009, at 1:00 p.m., in Courtroom 3 of the United States Courthouse, 1301 Clay Street, 3rd Floor, Oakland, California, 94612 on plaintiff's Motion to Strike Defendant's Counterclaim (the "Motion") [Docket No. 13] is VACATED. The movant has essentially filed a motion to dismiss plaintiff's counter-complaint for lack of subject matter jurisdiction. The movant, however, failed to file a certificate of meeting and conferring as required by this Court's Standing Order for Civil Cases, which requires all movants to meet and confer with all other parties prior to filing their moving papers. The parties are ORDERED to meet and confer in person or by telephone, within 20 days of the date of the entry of this Order, regarding whether plaintiff should withdraw its counter-complaint. The Court warns the parties against filing unnecessary pleadings which are neither a proper use of their time or the Court's. If the parties are unable to resolve this issue, the movant should file a joint declaration stating how and when it met and conferred. The movant may then re-notice his Motion for a regularly scheduled hearing date.

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IT IS SO ORDERED.

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November 12, 2008


Saundra Brown Armstrong
United States District Judge