

United States District Court
For the Northern District of California

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

CARLOS FIGUEROA,

No. C 11-02130 CW

Plaintiff,

v.

ORDER DISMISSING
PLAINTIFF'S
ACTION FOR
FAILURE TO
PROSECUTE

NATIONAL CITY MORTGAGE; ACCUBANK
MORTGAGE DIVISION, a division of
NATIONAL CITY BANK OF INDIANA; PNC
BANK, NATIONAL ASSOCIATION; CAL-
WESTERN RECONVEYANCE CORPORATION, and
DOES 1 through 50, inclusive,

Defendants.

On May 24, 2011, Defendant PNC Bank, National Association as
successor by merger to National City Bank, previously doing
business as National City Mortgage and Accubanc Mortgage,¹ filed
amended motions to dismiss pro se Plaintiff Carlos Figueroa's First
Amended Complaint, and to strike portions of that complaint.
Docket Nos. 18 & 19. After Plaintiff failed to oppose the motions
by the required deadline, the Court ordered Plaintiff to respond on
or before June 30, 2011, or face dismissal of his action for
failure to prosecute. Docket No. 25. Plaintiff again failed to
respond to the motions.

Apart from PNC Bank, the sole remaining Defendant is Cal-

¹ PNC Bank was sued in this capacity erroneously as "Accubanc
Mortgage a Division of National City Bank of Indiana."

1 Western Reconveyance Corporation. Cal-Western Reconveyance was
2 named as a defendant in its capacity as a trustee, and has filed an
3 unopposed "Declaration of Nonmonetary Status," pursuant to
4 California Civil Code § 29241. Notice of Removal at ¶ 7. As a
5 result, Cal-Western Reconveyance is no longer required to
6 participate in the action. Hafiz v. Greenpoint Mortg. Funding,
7 Inc., 652 F. Supp.2d 1050, 1053 (N.D. Cal. 2009) (citing Cal. Civ.
8 Code § 29241(c)-(d)).

9 Because Plaintiff has failed to prosecute this lawsuit, and
10 Cal-Western Reconveyance is not obliged to participate, Plaintiff's
11 action is dismissed.

12 IT IS SO ORDERED.

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15 Dated: 7/7/2011


CLAUDIA WILKEN
United States District Judge