

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,

Plaintiff,

v.

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.

No. C 11-02130 CW

ORDER DENYING  
PLAINTIFF'S  
UNTIMELY MOTION TO  
OPPOSE DEFENDANTS'  
MOTIONS TO DISMISS  
(Docket No. 29)

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The Court has dismissed this action for failure to prosecute. Plaintiff failed timely to oppose a motion to dismiss and a motion to strike, both filed by Defendant PNC Bank, National Association as successor by merger to National City Bank, previously doing business as National City Mortgage and Accubanc Mortgage.<sup>1</sup> Plaintiffs' response to these motions was originally due on June 9, 2011. On June 17, 2011, the Court issued an order vacating the

<sup>1</sup> PNC Bank was sued erroneously as "Accubanc Mortgage a Division of National City Bank of Indiana."

1 June 30, 2011 hearing date and giving Plaintiff a further  
2 opportunity to submit his written opposition by June 30, 2011, and  
3 warning him that if he did not, the Court would dismiss his  
4 complaint for failure to prosecute. Plaintiff failed to meet the  
5 second deadline. Thus, on July 7, 2011, the Court dismissed  
6 Plaintiff's action for failure to prosecute. Claims against the  
7 other named Defendants had been dismissed for other reasons.

8 On July 8, 2011, Plaintiff filed a document entitled "Notice  
9 of Motion and Motion for Oppositions of the First Amended  
10 Complaint." Docket No. 29. The Court considers that as his  
11 opposition to the motion to dismiss. As such, it is untimely and  
12 without merit. The case remains closed.

13 IT IS SO ORDERED.

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15 Dated: 9/19/2011

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18 CLAUDIA WILKEN  
19 United States District Judge  
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