UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

JOSELITO FABIONAR, individuals, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

FIRST FEDERAL BANK OF CALIFORNIA, as the Original Lender; SEASIDE FINANCIAL CORPORATION, as the Original Trustee; COMMONWEALTH LAND TITLE, Title Company; ONE WEST BANK, as Sub Servicer; AURORA LOAN SERVICES LLC, as the PSA Master Servicer; LEHMAN BROTHERS HOLDINGS INC. PSA Sponsor and Seller; STRUCTURED ASSET SECURITIES CORPORATION, as PSA Depositor; CITIBANK, N.A., as PSA Trustee; LASALLE BANK, N.A. U.S. BANK, N.A. WELLS FARGO BANK, N.A. PSA Custodian; LEHMAN XS TRUST, SERIES 2005-3, as the PSA Trust Issuing Entity; TD SERVICE COMPANY, as the Foreclosing Trustee; and DOES 1 THROUGH 100, INCLUSIVE

Defendants.

Case No: C 12-0991 SBA

ORDER

On February 27, 2012, Plaintiff Joselito Fabionar ("Plaintiff"), proceeding pro se, brought the instant action against Defendants alleging various claims arising out of a home loan and the initiation of foreclosure proceedings. See Compl., Dkt. 1. The parties are presently before the Court on Defendant Wells Fargo Bank, N.A.'s ("Wells Fargo") motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure, which was filed on

April 17, 2012. Dkt. 3. Also before the Court is Defendant Aurora Loan Service, LLC's ("Aurora") motion to dismiss under Rule 12(b)(6), which was filed on May 7, 2012. Dkt. 13. Under Local Rule 7-3, a party must file an opposition or statement of non-opposition to a motion no later than fourteen days (14) after the motion is filed. See N.D. Cal. Civ. L.R. 7-3(a), (b).[1] This Court's Standing Orders specifically warn that "failure of the opposing party to file a memorandum of points and authorities in opposition to any motion shall constitute a consent to the granting of the motion." Civil Standing Orders at 5, Dkt. 21. To date, Plaintiff has not filed a response to Wells Fargo's or Aurora's motion to dismiss in violation of Civil Local Rule 7-3.

The failure to file an opposition to a motion to dismiss in the manner prescribed by the Court's Local Rules is a ground for dismissal. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam) (failure to file an opposition to a motion to dismiss in violation of a local rule is a proper ground to grant the motion). Here, although Plaintiff's failure to file an opposition to either of the motions to dismiss is a proper ground to grant the motions, the Court will afford Plaintiff the opportunity to respond to the motions by no later than ten (10) days from the date this Order is filed. The Court, however, warns Plaintiff that the failure to comply with this deadline will result in dismissal of this action with prejudice under Rule 41(b) of the Federal Rules of Civil Procedure. Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992) (pursuant to Rule 41(b), a district court may dismiss an action for failure to comply with any order of the court).

Accordingly, IT IS HEREBY ORDERED THAT:

1. Plaintiff shall file a response to Wells Fargo's and Aurora's motion to dismiss by no later than ten (10) days from the date this Order is filed. In the event Plaintiff fails to timely comply with this Order, this action will be dismissed with prejudice under Rule

[1] The deadline to file an opposition is extended by 3 days if the motion was not filed and served through the Court's Electronic Case Filing ("ECF") system and was served pursuant to Federal Rule of Civil Procedure 5(b)(2)(C), (D), (E) or (F). Civil L.R. 7-3(a).

41(b). Wells Fargo and Aurora shall notify the Court if Plaintiff fails to comply with this Order.

IT IS SO ORDERED

Dated: 7/10/12

SAUNDRA BROWN ARMSTRONG
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JOSELITO FABIONAR,

Plaintiff,

v.

FIRST FEDERAL BANK OF CALIFORNIA et al,

Defendant.
_____/

Case Number: CV12-00991 SBA

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 12, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Joselito Fabionar
27624 Baldwin Street
Hayward, CA 94544

Dated: July 12, 2012

Richard W. Wieking, Clerk

By: Lisa Clark, Deputy Clerk