

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KEYHAN MOHANNA,  
Plaintiff,  
v.  
BANK OF AMERICA, N.A.,  
Defendant.

Case No. 16-cv-01033-HSG

**ORDER TO SHOW CAUSE AS TO  
WHY CASE SHOULD NOT BE  
DISMISSED**

On June 9, 2016, Pro Se Plaintiff Keyhan Mohanna (“Plaintiff”) filed a motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b)(2). Dkt. No. 17. On March 14, 2017, the Court denied Plaintiff’s motion for default judgment, largely because the Court found that Plaintiff’s TILA rescission claim as pled was time-barred. See Dkt. No. 25 at 7.

When presented with an inadequately pled complaint, the Court may note deficiencies in the complaint on its own initiative and *sua sponte* dismiss it for failure to state a claim under FRCP 12(b)(6). See *Wong v. Bell*, 642 F.2d 359, 361 (9th Cir. 1981). Generally, the Court must give prior notice of its intention to dismiss and allow Plaintiff an opportunity to oppose the dismissal, unless the Plaintiff “cannot possibly win relief.” *Id.* at 362. Courts in this circuit have *sua sponte* dismissed other time-barred TILA claims. See *Sotanski v. HSBC Bank USA, Nat’l Assoc.*, No. 15-CV-01489, 2015 WL 4760506, at \*6 (N.D. Cal. Aug. 12, 2015) (citing multiple cases within the Ninth Circuit dismissing time-barred TILA claims *sua sponte*), *aff’d*, No. 15-16798, 2016 WL 7407292, at \*1 (9th Cir. 2016).


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Because the Court finds that this action is facially time-barred, *sua sponte* dismissal may be warranted. *See Sotanski*, 2015 4760506 at \*6. The Court thus **ORDERS** Plaintiff to show cause by May 19, 2017 why the Court should not *sua sponte* dismiss this action.

**IT IS SO ORDERED.**

Dated: 4/21/2017

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge