

1 **E-Filed 12/16/2010**

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8 **IN THE UNITED STATES DISTRICT COURT**

9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 **SAN JOSE DIVISION**

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12 RONALD LEE,

13 Plaintiff,

14 v.

15 AURORA LOAN SERVICES, INC., et al.,

16 Defendants.

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Case Number C 09-4482 JF (HRL)

ORDER¹ VACATING HEARING
DATE; GRANTING MOTIONS TO
DISMISS WITHOUT LEAVE TO
AMEND; AND DISMISSING
ACTION WITH PREJUDICE

[re: document nos. 69, 72]

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20 Defendants Aurora Loan Services, Inc. (“Aurora”) and Mortgage Electronic Registration
21 Systems, Inc. (“MERS”) move to dismiss the Plaintiff’s second amended complaint (“SAC”)
22 pursuant to Federal Rule of Civil Procedure 12(b)(6). Aurora additionally moves to strike
23 portions of the FAC pursuant to Federal Rule of Civil Procedure 12(f).

24 Plaintiff has not filed opposition to the motions. The Court is aware that Plaintiff’s
25 counsel withdrew from the case in September of this year, and that Plaintiff now is proceeding
26 *pro se*. However, Plaintiff was present in court when the Court set the hearing date of December
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28 ¹ This disposition is not designated for publication in the official reports.

1 17, 2010. Dkt. Entry 96 (Civil Minutes). The Court intentionally set the hearing more than two
2 months out so that Plaintiff would have ample time to respond to the pending motions. Plaintiff
3 has not responded, nor has he sought additional time to respond.

4 The Court has dismissed Plaintiff's complaints on two prior occasions. The Court's last
5 order filed May 18, 2010 is twelve pages long and discusses in detail Plaintiff's failure to state a
6 claim. There is no indication in the record that Plaintiff will be able to amend his pleading to
7 cure the defects noted by the Court. Accordingly, the Court will vacate the December 17 hearing
8 date and grant Defendants' motions to dismiss without leave to amend.

9 **ORDER**

- 10 (1) The hearing date of December 17, 2010 is VACATED;
11 (2) Defendants' motions to dismiss are GRANTED WITHOUT LEAVE TO
12 AMEND;
13 (3) The action is DISMISSED WITH PREJUDICE; and
14 (4) The Clerk of the Court shall close the file.

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17 DATED: 12/16/2010

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19 JEREMY FOGEL
20 United States District Judge
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1 This Order was served upon the following persons:

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