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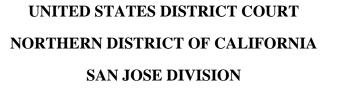
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SEEMA KHAN

v.

Plaintiff,

WORLD SAVINGS BANK, FSB,

Defendant.

Case No.: 10-CV-04057-LHK

ORDER DENYING MOTION TO SUBSTITUTE COUNSEL

This action was originally filed in the Superior Court for the County of Santa Clara on August 2, 2010. On September 9, 2010, Defendant World Savings Bank removed the action to this Court. World Savings Bank then filed a Motion to Dismiss the complaint on September 16, 2010. See Dkt. No. 6. This Motion was originally set for hearing on November 2, 2010 (this date was vacated when the case was reassigned). Id. As a result, the opposition to this motion was due on October 12, 2010. Plaintiff's counsel did not timely file an opposition to the Motion to Dismiss, or a statement of non-opposition, as required by Local Rule 7-3(b).¹ On October 28, 2010, this matter was reassigned to the undersigned per the Defendant's declination to proceed before a Magistrate Judge. On November 2, 2010, Counsel for Plaintiff in this action filed a proposed "Consent Order Granting Substitution of Attorney," attempting to substitute Plaintiff as pro se counsel. See Dkt. ¹ This is the second time that counsel for Plaintiffs has failed to follow the Local Rules by failing to file an opposition to a Motion to Dismiss, or a statement of non-opposition, in a case assigned to this Court. See Jones v. PNC Bank, N.A., Case No. 10-cv-01077-LHK, 2010 U.S. Dist. LEXIS 92866 at *7-*8 (N.D. Cal. Aug. 20, 2010). Plaintiff's counsel is warned that repeated failure to follow the Local Rules can lead to sanctions. See Local Rule 1-4. 1

Case No.: 10-CV-04057-LHK ORDER DENYING MOTION TO SUBSTITUTE COUNSEL No. 12. On November 3, 2010, the Defendant filed an Amended Motion to Dismiss. *See* Dkt. No. 13.

If attorney for Plaintiff wishes to withdraw from this matter, he must move to withdraw under Local Rule 11-5(b), and pursuant to the relevant California Rules of Professional Conduct. These rules permit counsel to withdraw in cases where the client "breaches an agreement or obligation to the member as to expenses or fees," or where the client "knowingly and freely assents" to withdrawal. Cal. Rules of Prof'l Conduct 3-700(C)(1)(f), (5). In all cases, however, counsel must take "reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, complying with Rule 3-700(D) [which addresses the disposition of client papers and property], and complying with applicable laws and rules." *Id.* 3-700(A)(2).

Plaintiff's counsel's attempt to substitute Plaintiff as counsel is improper, particularly in light of counsel's failure to file an opposition or a statement of non-opposition to the first Motion to Dismiss. Therefore, this request is DENIED.

IT IS SO ORDERED.

Dated: November 3, 2010

ucy H. Koh

United States District Judge

Case No.: 10-CV-04057-LHK ORDER DENYING MOTION TO SUBSTITUTE COUNSEL