

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHARLES FERCHAU,)	Case No.: 13-CV-0941-LHK
)	
Plaintiff,)	ORDER TO SHOW CAUSE WHY CASE
v.)	SHOULD NOT BE DISMISSED FOR
)	FAILURE TO PROSECUTE
CITIMORTGAGE, INC.; and DOES 1-100,)	
Inclusive,)	
)	
Defendants.)	
)	

This action was removed from the Santa Clara County Superior Court on March 1, 2013. ECF No. 1. On March 8, 2013, Defendant CitiMortgage filed a motion to dismiss, ECF No. 6. On April 29, 2013, Plaintiff filed a First Amended Complaint, ECF No. 9.

On June 6, 2013, Defendant CitiMortgage filed a motion to dismiss Plaintiff's First Amended Complaint, alleging that the First Amended Complaint fails to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 14.

Pursuant to Civil Local Rule 7-3(a), Plaintiff's opposition to the motion to dismiss was due on June 20, 2013. On July 30, 2013, Defendant CitiMortgage filed a notice of non-opposition, noting that Plaintiff had failed to file an opposition to the motion to dismiss and requesting that the Court issue a decision based on the moving papers. As of today, August 6, 2013, Plaintiff has not filed an opposition or statement of nonopposition to this motion.

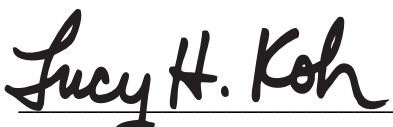
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A Case Management Conference was scheduled for August 7, 2013. On August 4, 2013, after no Joint Case Management Statement had been filed, the Court issued an Order directing the parties to file a Joint Case Management Statement by 5:00 p.m on August 5, 2013. ECF No. 22. On August 5, 2013, Defendant CitiMortgage filed a Case Management Statement, stating that “efforts to reach counsel for Plaintiff Charles Ferchau . . . have been unsuccessful.” ECF No. 23.

The Court hereby VACATES the Case Management Conference set for August 7, 2013 and orders Plaintiff to show cause why this case should not be dismissed for failure to prosecute. This Order does not authorize Plaintiff to file an untimely opposition to the motion to Dismiss. Plaintiff has until August 21, 2013 to file a response to this Order to Show Cause. A hearing on this Order to Show Cause is set for **August 28, 2013 at 2:00 P.M.** Plaintiff’s failure to respond to this Order and to appear at the August 28, 2013 hearing will result in dismissal with prejudice for failure to prosecute.

IT IS SO ORDERED.

Dated: August 6, 2013



LUCY H. KOH
United States District Judge