

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GABRIEL REYES,
Plaintiff,
v.
WELLS FARGO BANK, N.A., a National
Association; NORTHWEST TRUSTEE
SERVICES, INC., a Washington
Corporation,
Defendants.

Case No. [5:15-cv-03084-HRL](#)

**ORDER TO SHOW CAUSE WHY THIS
CASE SHOULD NOT BE DISMISSED
FOR FAILURE TO PROSECUTE**

Plaintiff filed this mortgage action on July 2, 2015. Shortly after, defendant Wells Fargo Bank, N.A. moved to dismiss the complaint. Plaintiff failed to file any opposition to that motion. Nevertheless, this court subsequently was informed that the parties had agreed to pursue a loan modification review. Accordingly, Wells Fargo’s motion to dismiss was taken off calendar.

Plaintiff apparently did not submit his loan modification application until over a month later. (Dkt. 18). According to Wells Fargo, the application was incomplete; and, plaintiff was given until November 27, 2015 to submit the additional information defendant requested. The parties later reported that plaintiff never submitted the requested information. Consequently, the loan modification review was closed. (Dkt. 20). At the parties’ request this court restored Wells Fargo’s motion to dismiss to the calendar and re-set briefing deadlines. (Dkt. 21).

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Once again, plaintiff allowed the filing deadline to lapse without filing any opposition papers. Additionally, this court was told that plaintiff's counsel failed to participate in a February 10, 2016 ADR phone conference and that efforts to contact plaintiff's counsel by phone were unsuccessful.

The court then converted what would have been the February 16, 2016 hearing on Wells Fargo's motion to dismiss to a status conference at which the parties were directed to appear and advise as to the status of this matter. Wells Fargo's counsel appeared. Plaintiff did not. Defense counsel stated that just prior to the conference, he received an email from plaintiff's counsel claiming that a medical emergency prevented him from making an appearance and requesting that the matter be continued for a week.

Plaintiff's counsel, Edward Ramirez, shall appear in person before this court on **February 23, 2016, 10:00 a.m.**, Courtroom 2, Fifth Floor of the United States District Court, 280 South First Street, San Jose, California and show cause why this action should not be dismissed for failure to prosecute. Additionally, **no later than February 19, 2016**, Mr. Ramirez shall file a declaration explaining the medical emergency that reportedly prevented him from appearing at the February 16, 2016 status conference.

SO ORDERED.

Dated: February 16, 2016



HOWARD E. LLOYD
United States Magistrate Judge

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5:15-cv-03084-HRL Notice has been electronically mailed to:

Edward Robert Ramirez err@ramirezassociatesllp.com

Gurinder Singh Grewal gsg@severson.com, jc@severson.com, jfa@severson.com

Jason Allen Savlov jsavlov@rcolegal.com, aphommasa@rcolegal.com