

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Raymond Smith,
Plaintiff,

v.

Accredited Home Lenders; U.S. Bank Trust, N.A., as
Trustee for Volt Asset Holdings Trust XVI; and Does
1-100,
Defendants.

2:15-cv-00565-JAD-GWF

**Order Granting U.S. Bank's
Unopposed Motion to Dismiss and
Ordering Plaintiff to Show Cause Why
this Action Should Not be Dismissed
Against Accredited Home Lenders
Under FRCP 4(m)
[#8]**

This removed pro se action challenges the October 2014 foreclosure on 5729 Brisbane Place in Las Vegas, Nevada. Doc. 1. On June 8, 2015, defendant U.S. Bank moved to dismiss all claims against it with prejudice, arguing that plaintiff's "rote" allegations are nothing more than conjecture and case theories that have already been rejected by this court. Doc. 8. Plaintiff had until June 25, 2015, to file an opposition. Doc. 8; L.R. 7-2(b). He did not respond. Doc. 10 (notice of non-opposition). Local Rule 7-2(d) provides that "[t]he failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." Because plaintiff's failure to oppose U.S. Bank's motion constitutes consent to granting the motion, I grant it as unopposed.

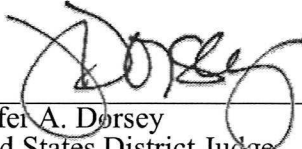
Rule 4 of the Federal Rules of Civil Procedure gives a plaintiff 120 days from filing a complaint to serve the summons and complaint on all defendants. Rule 4(m) states, "If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time." The complaint in this case is dated February 17, 2015. Doc. 1 at 23. There is no evidence in the record that remaining defendant Accredited Home Lenders has been served. Accordingly, plaintiff will have until July 10, 2015, to file proof of timely service or show cause why this case should not be dismissed under Rule 4(m).

Accordingly, and with good cause appearing, IT IS HEREBY ORDERED that the Motion to

1 Dismiss [Doc. 8] is GRANTED; all of plaintiffs' claims against U.S. Bank are dismissed with
2 prejudice.

3 IT IS FURTHER ORDERED that plaintiff has until July 10, 2015, to file proof of timely
4 service on Accredited Home Lenders or show cause why this case should not be dismissed under
5 Rule 4(m) for failure to effectuate timely service. Plaintiff's failure to provide such proof or good
6 cause by July 10, 2015, will result in the dismissal of all remaining claims in this case without
7 prejudice.

8 Dated this 29th day of June, 2015.

9
10 
11 _____
12 Jennifer A. Dorsey
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28