

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
3470 Twelfth Street, Riverside, CA 92501
CIVIL MINUTES -- GENERAL

Case No. ED CV 09-00376-SGL(RCx) Date: June 1, 2009
(See Addendum B for additional OSC cases)

Title: ALEJANDRO MENA, ET AL. -v- WELLS FARGO BANK, N.A., ET AL.

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PRESENT: HONORABLE STEPHEN G. LARSON, UNITED STATES DISTRICT JUDGE

Cindy Sasse
Courtroom Deputy

Theresa Lanza
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

Rosetta Runnels

Nicholas Gregory Hood

PROCEEDINGS: ORDER GRANTING DEFENDANTS' MOTION TO DISMISS (DOCKET #4); ORDER GRANTING DEFENDANTS' MOTION TO EXPUNGE LIS PENDENS (DOCKET #5); ORDER POSTPONING RULING ON DEFENDANTS' REQUEST FOR ATTORNEY'S FEES; ORDER REQUIRING LAW OFFICES OF JAMES CURTIS & ASSOCIATES TO SHOW CAUSE; ORDER REQUIRING THE PERSONAL APPEARANCE OF ATTORNEY JAMES CURTIS

Case was called. Appearance was made for defendants, but no appearance by counsel of record was made for plaintiffs; instead, an attorney not associated with the case attempted to "specially appear" on behalf of plaintiffs for the hearing on said motions.¹

For the reasons stated on the record, the motion to dismiss is **GRANTED** and the matter is dismissed with prejudice. Moreover, defendants' motion to expunge lis pendens is **GRANTED** and it is ordered that the notice of lis pendens concerning the property commonly known and located at 27015 Fisher Street, Highland, CA 92346, with Assessor's Parcel No. 1191-441-52 is **EXPUNGED**. The Court postpones ruling on defendants' request for attorney's fees to the June 8, 2009, OSC

¹ Mr. Curtis's stand-in was specifically instructed that Mr. Curtis must be advised of his obligation to appear before this Court on Monday, June 8, 2009, as set forth herein.

hearing noted below.

In granting the present motions, some further explanation than that offered on the record is in order. Plaintiffs' opposition to the motion to dismiss is noteworthy not for any arguments addressing the points raised in the motion to dismiss, but for addressing arguments not raised in the motion. In point of fact, the opposition is clearly a "boilerplate" pleading that plaintiffs' counsel, James Curtis (California State Bar #140709), has developed to utilize whenever he decides to "oppose" a motion in one of his many mortgage-related lawsuits he has filed before this Court and others in the Central District over the past six months.²

The reason the Court can confidently characterize the opposition filed in this case as boilerplate is because he filed an almost identical opposition in another case that was set for hearing on June 1, 2009, Eduwiges Rodriguez v. U.S. Bank National Association, et al., EDCV-09-457-SGL (OPx), a hearing that was vacated in favor of a written disposition without a hearing. See Fed. R. Civ. P. 78(b); Local Rule 7-15. Moreover, in two other cases, Elvis Gutierrez v. Countrywide Home Loans, Inc., EDCV-09-326-SGL (MANx) and Blanca Vargas v. Wells Fargo Bank, N.A., EDCV-09-399-SGL (JCx), Mr. Curtis filed almost identical oppositions one week and two days (respectively) after these cases were dismissed. The minor variations among the oppositions are insignificant.³

Over the past six months, a large number of cases have been removed to this Court consisting of boilerplate complaints asserting essentially the same claims concerning the foreclosure of various plaintiffs' homes by a number of defendants who were involved in either the origination or secondary market on those mortgages. The plaintiffs in all of these cases are or were represented by Mr. Curtis. The ten of these cases that have been assigned to this judicial officer proceed in a very predictable manner. Until the two cases set for hearing on June 1, 2009, Mr. Curtis filed no timely opposition to motions to dismiss his cases, and his cases essentially withered on the vine before they were dismissed for his failure to file oppositions.

The Court has attached as Addendum A to this Order a listing of the cases adjudicated thus far before this judicial officer, identifying (1) the case name and number, (2) the date the matter was removed to this Court, (3) the date an order or motion to dismiss, strike, etc., was filed by the defendant(s), (4) whether a response or opposition was ever tendered thereto by plaintiffs' counsel, and (5) the disposition of the matter, which was, in each instance, the dismissal of the case for failure to file a timely opposition to a motion to dismiss. These cases, in the Court's view,

² Mr. Curtis has filed 49 mortgage-related cases in the Central District since January, 2009, of which 10 have been before this judicial officer.

³ Ironically, Mr. Curtis, in his opposition in this case derides defendants' motion to dismiss as "part and parcel of one in a series of 'Boilerplate' Motions to Dismiss filed by the same law firm Wright, Finlay & Zak, LLP with all of these motions containing verbatim the same cited authorities." Opp. at 1-2.

represent either a wholesale abdication by Mr. Curtis of his duty to his clients and/or this Court, or they evidence Mr. Curtis's assessment of the lack of merits of the complaints he has filed.

Accordingly, plaintiffs in the remaining cases before this Court filed by the Law Offices of James Curtis & Associates (see Addendum B listing the cases affected) are **ORDERED TO SHOW CAUSE** by Monday, June 8, 2009, why those cases should not likewise be dismissed without prejudice and the Law Offices of James Curtis & Associates ordered to pay costs or fees thus far incurred by defendants in litigating those matters to date. Furthermore, plaintiffs' counsel, Mr. James Curtis is **ORDERED TO SHOW CAUSE** by Monday, June 8, 2009, why he should not be forced to refund to his clients in the ten cases, identified by the Court in Addenda A and B, any attorney fees, retainers, or other advances paid to him by his clients. Additionally, Mr. Curtis is **ORDERED TO SHOW CAUSE** why the Court should not find that he is in violation of Fed. R. Civ. P. 11(b)(1) for filing lawsuits for an improper purpose. Specifically, it appears to the Court that the actions referenced in Addenda A and B have been filed merely to forestall the foreclosure, non-judicial sale, and subsequent eviction of plaintiffs (if required), rather than being filed with any intention to pursue the claims asserted on their merits.

Toward that end, the Court sets all the matters listed in Addendum B for hearing at 10:00 a.m., in Courtroom One of the above-referenced Court, on Monday June 8, 2009. Mr. Curtis is **ORDERED TO APPEAR PERSONALLY**; his failure to appear will result in a finding of contempt, and the Court will take appropriate steps to secure his appearance at a subsequent hearing. Voluntary dismissals of this case and the cases set forth in Addendum B will not excuse Mr. Curtis's appearance at the hearing.

The Clerk shall docket this Order in the above-captioned case and in the four cases set forth in Addendum B.

IT IS SO ORDERED.

ADDENDUM A

	Case Name & Number	Removal Date	Motion/ Court Order Filed	Response/ Opposition Tendered?	Disposition of Matter
1	Jozef Forgac, et al. v. Suntrust Mortgage Inc., et al., EDCV-09-181-SGL (AGRx)	01/28/2009	Motion to Dismiss (docket #5); Motion Dismiss (docket #6)	None filed	Case dismissed for failure to file opposition
2	Arturo Melchor, et al., v. HSBC Bank USA Nat'l Ass., et al., EDCV-09-248-SGL (OPx)	02/05/2008	Motion Dismiss (docket #4)	None filed	Case dismissed for failure to file opposition
3	Elvis Gutierrez v. Countrywide Home Loans, Inc., et al., EDCV-09-326-SGL (MANx)	02/13/2009	Motion Dismiss (docket #4); Motion Dismiss (docket #5)	None filed	Case dismissed for failure to file opposition
4.	Pedro Mancilla v. SBMC Mortgage et al., EDCV-09-396-SGL (CTx)	02/25/2009	Motion Dismiss (docket # 4)	None filed	Case dismissed for failure to file opposition
5.	Blanca Vargas et al., v. Wells Fargo Bank NA, et al., EDCV-09-399-SGL (JCx)	02/25/2009	Motion Dismiss (docket #4)	None filed	Case dismissed for failure to file opposition

ED CV 09-00376-SGL(RCx)

ALEJANDRO MENA, ET AL. v WELLS FARGO BANK, N.A., ET AL.

MINUTE ORDER of June 1, 2009

ADDENDUM B

1. Juan Manuel Palomares v. Countrywide Home Loans Inc. et al., EDCV-09-437-SGL (OPx)
2. Luis Villicana et al. v. Countrywide Home Loans Inc. et al., EDCV-09-441-SGL (OPx)
3. Eduwiges Rodriguez v. US Bank National Association et al., EDCV-09-457-SGL (OPx)
4. Cindy Kim v. EMC Mortgage Corporation et al., EDCV-09-590-SGL (RCx)