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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JPMORGAN CHASE BANK, N.A.,

Plaintiff,

v.

YAMASSEE TRIBAL NATION, *et al.*,

Defendants.

Case No. 1:17-cv-00759-LJO-EPG

**ORDER (1) DENYING PLAINTIFF'S  
MOTIONS TO STRIKE PURSUANT TO FED.  
R. CIV. P. 12(f); (2) STRIKING CERTAIN  
DOCUMENTS PURSUANT TO FED. R. CIV.  
P. 11(a), LOCAL RULE 131(b), and LOCAL  
RULE 183(a); AND (3) DIRECTING THE  
CLERK TO ENTER DEFAULT AS TO  
CERTAIN DEFENDANTS**

(ECF Nos. 14, 16)

Pending before the Court are two motions filed by Plaintiffs: Motion to Strike Improper and Untimely Pleading Captioned as "Order to Show Cause," (ECF No. 14), and Motion to Strike Improper and Untimely Pleading Captioned as "Final Order to Cease & Desist Pursuant to 25 United States Code § 1301," (ECF No. 16). Plaintiff has also requested the entry of default as to Yamassee Tribal Nation and Supreme Court of the Yamassee Native American Association of Nations.

For the reasons set forth below, Plaintiff's motions to strike, (ECF Nos. 14, 16), are DENIED IN PART AND GRANTED IN PART. Furthermore, the Clerk is directed to enter the default of Yamassee Tribal Nation and Supreme Court of the Yamassee Native American Association of Nations.

1 **I. BACKGROUND**

2 On June 2, 2017, Plaintiff JPMorgan Chase Bank, N.A. (“Chase”) commenced this action  
3 seeking declaratory and injunctive relief against Peter P. Khamsanvong, Yamassee Tribal Nation  
4 (“YTN”), Supreme Court of the Yamassee Native American Association of Nations  
5 (“SCYNAAN”) (collectively, “Defendants”), and Does 1 through 10. (ECF No. 1.) Plaintiff  
6 alleges that on or about August 13, 2013, Defendant Khamsanvong obtained a residential loan for  
7 \$108,989.00 secured by a deed of trust encumbering a property. Plaintiff was the servicer of the  
8 residential loan until October 1, 2015, when Carrington Mortgage Services, LLC (“Carrington”)  
9 became the loan servicer. Carrington started non-judicial foreclosure proceedings on the property,  
10 and on September 30, 2016, caused a Notice of Default to be recorded against title to the  
11 property.

12 Plaintiff further alleges that on December 13, 2016, the Yamassee Supreme Court issued  
13 an “Order to Show Cause/Default Judgment/Writ of Restituion [sic] In The Event Defendants Fail  
14 To Respond Within 21 Days Of Receipt Of This Order” naming Chase and Jamie Dimon,  
15 Chase’s Chief Executive Officer, as defendants. The Order to Show Cause alleges that Peter P.  
16 Khamsanvong is “an enrolled tribal member of the Yamassee tribal nation,” and seeks remedies  
17 against the named defendants including an accounting, restitution or payment of proceeds from an  
18 alleged “securitization” of the mortgage note and damages in the amount of \$25 million dollars.  
19 Plaintiff seeks an injunction against Defendants and a judicial declaration that the Yamassee  
20 Tribal Nation or the Yamassee Supreme Court lacks any personal or subject matter jurisdiction  
21 over Plaintiff or its executives.

22 On June 2, 2017, the Court issued an order setting a mandatory scheduling conference,  
23 pursuant to Fed. R. Civ. P. 26(f). The order directed the parties to file a joint scheduling report  
24 prior to the conference. (ECF No. 3.)

25 On July 6, 2017, Defendant Khamsanvong was personally served with the summons and  
26 complaint. (ECF No 4.) On August 2, 2017, Plaintiff obtained a default judgment against  
27 Defendant Khamsanvong, as he failed to appear, plead, or answer the complaint within the time  
28 allowed by law. (ECF No. 6.) On August 30, 2017, Defendants Yamassee Tribal Nation and

1 Supreme Court of the Yamassee Native American Association of Nations were served with the  
2 summons and complaint. (ECF No. 10, 11.)

3 On September 8, 2017, Defendant Khamsanvong filed three documents on the letterhead  
4 of “The Traditional Court of Equity for the Association of Original Peoples’ Bands, Tribes, Clans  
5 and Communities in North America, South America, Africa and Australasia” in this action. (ECF  
6 No. 9.) The documents were docketed as, “Response on Behalf of Peter Khamsanvong.” The first  
7 document entitled “Order to Show Cause” is signed by “Judge Silver Cloud Musafir,” and alleges  
8 that “[t]he federal courts . . . have broken, breached, violated and destroyed the basic relationship  
9 between two sovereigns – the Indian nation . . . and a federal government.” The document cites  
10 25 U.S.C. §§ 450n, 1301 and 18 U.S.C § 1151, and states that “it is meaningless to cite and quote  
11 the hundred ‘common law’ principles that have no meaning, no traction or bearing when it comes  
12 to applying them in favor of Indian nations and its terms of reference.” It further considers the  
13 federal court’s authority to “cite[] an Indian nation as a ‘defendant,’” and states that “[t]he Tribal  
14 Court requests the federal court to **cease and desist** working for outside influences and instead  
15 apply the law(s) concerning the property laws of its enrolled tribal member Peter P.  
16 Khamsanvong.” (Emphasis in original.)

17 On September 22, 2017, Defendant Khamsanvong filed a document entitled, “Final Order  
18 to Cease & Desist Pursuant to 25 United States Code § 1301,” that is signed by “Judge Silver  
19 Cloud Musafir” and on the letterhead of “The Traditional Court of Equity for the Association of  
20 Original Peoples’ Bands, Tribes, Clans and Communities in North America, South America,  
21 Africa and Australasia.” (ECF No. 12.) The document was docketed as, “Report by Yamassee  
22 Tribal Nation, Yamassee Native American Association of Nations and Peter Khamsanvong.” The  
23 document refers to the required Rule 26(f) report, and states that the Court “has ventured a Report  
24 in the form of an Order to a tribal government judiciary challenging the latter’s jurisdiction and  
25 authority.” It also questions whether this Court should be sanctioned or impeached for breaking  
26 the law. The document further states that if the Court “continues to break the laws of the land  
27 especially those governing tribal governments and their inherent rights, this Tribal Court may be  
28 impelled to use arrest warrants against wrongdoers and tortfeasors as contemplated in 25 United

1 States Code § 1301 with which we may invoke police power.”

2 On October 2, 2017, Plaintiff filed the pending Motion to Strike Improper and Untimely  
3 Pleading Captioned as “Order to Show Cause.” (ECF No. 14.) On October 11, 2017, Plaintiff  
4 filed the pending Motion to Strike Improper and Untimely Pleading Captioned as “Final Order to  
5 Cease & Desist Pursuant to 25 United States Code § 1301.” (ECF No. 16.)

6 On October 11, 2017, Plaintiff also filed requests for entry of default against YTN and  
7 SCYNAAN. (EFC 17, 18).

8 Now before the Court are Plaintiff’s motions to strike, pursuant to Fed. R. Civ. P. 12(f),  
9 the documents filed by Defendant Khamsanvong. (ECF No. 14, 16.) Plaintiff argues that the  
10 Court should strike the documents because they fail to constitute an appropriate answer or  
11 response, and were filed after a default had been entered against Defendant Khamsanvong.

## 12 **II. MOTIONS TO STRIKE**

13 Federal Rule of Civil Procedure 12(f) permits the court to “strike from a pleading an  
14 insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” “Under the  
15 express language of [Rule 12(f)], only pleadings are subject to motions to strike.” *Sidney-Vinsein*  
16 *v. A.H. Robins Co.*, 697 F.2d 880, 885 (9th Cir. 1983). Rule 7 defines “pleadings” as a complaint  
17 or an answer, generally. Fed. R. Civ. P. 7. In turn, Rule 8(b) details the requirements for  
18 responding to a pleading. Specifically, when answering a complaint, the defendants must (1)  
19 “state in short and plain terms its defenses to each claim asserted against it”; and (2) “admit or  
20 deny the allegations asserted against it by an opposing party.” Fed. R. Civ. P. 8(b)(1).

21 Here, the documents do not constitute pleadings as defined by the Federal Rule of Civil  
22 Procedure. They are not identified by Defendant Khamsanvong as such and do not contain  
23 language that would necessitate the Court liberally construe them as such. In addition, Plaintiff  
24 acknowledges that the documents fail to constitute an appropriate answer or response. Thus, the  
25 Court cannot strike the documents pursuant to Rule 12(f).

26 Nevertheless, the Court will strike the documents pursuant to Fed. R. Civ. P. 11(a), Local  
27 Rule 131(b), and Local Rule 183(a). Local Rule 183(a) provides, “A corporation or other entity  
28 may appear only by an attorney.” Therefore, Defendant Khamsanvong cannot act on behalf of

1 YTN and SCYNAAN. Furthermore, Rule 11 provides, “Every pleading, written motion, and  
2 other paper must be signed by at least one attorney of record in the attorney’s name—or by a  
3 party personally if the party is unrepresented. . . . The court must strike an unsigned paper unless  
4 the omission is promptly corrected after being called to the attorney’s or party’s attention.” Local  
5 Rule 131(b) provides, “All pleadings and non-evidentiary documents shall be signed by the  
6 individual attorney for the party presenting them, or by the party involved if that party is  
7 appearing in propria persona.” The documents, although filed by Defendant Khamsanvong, are  
8 not signed by him or by an attorney representing him. Thus, the documents, (ECF Nos. 9, 12.),  
9 must be stricken.

10 **III. REQUESTS FOR DEFAULT**

11 Fed. R. Civ. P. 55(a) provides, “When a party against whom a judgment for affirmative  
12 relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or  
13 otherwise, the clerk must enter the party’s default.” Plaintiff has filed requests for entry of default  
14 as to YTN and SCYNAAN. (EFC 17, 18). Defendants YTN and SCYNAAN have failed to  
15 appear, plead, or otherwise defend this action. Thus, the Clerk is directed to enter their default in  
16 accordance with Rule 55(a).

17 **IV. CONCLUSION**

18 Based on the foregoing, it is HEREBY ORDERED that:

- 19 1. Plaintiff’s motions to strike, (ECF No. 14, 16.), are DENIED IN PART;
- 20 2. The documents docketed as ECF Nos. 9 and 12 are STRICKEN for lack of signature;  
21 and
- 22 3. The Clerk of the Court is DIRECTED to enter default as to Yamassee Tribal Nation  
23 and Supreme Court of the Yamassee Native American Association of Nations.

24  
25 IT IS SO ORDERED.

26 Dated: December 27, 2017

27 /s/ Eric P. Gray  
28 UNITED STATES MAGISTRATE JUDGE