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NOT FOR PUBLICATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Bruce Freund; Elizabeth Freund,

No. CV-09-8034-PCT-FJM

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Plaintiffs,

ORDER

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vs.

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New Century Mortgage Corporation, et al,

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Defendants.

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The court has before it defendants’ motion to dismiss this action (doc. 6). Plaintiffs have not responded and the time for doing so has long since passed.

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Plaintiffs filed this action in state court alleging claims of wrongful foreclosure, conversion, negligence, negligent misrepresentation, accounting, declaratory relief, and quiet title. The complaint appears to have been filed in an effort to avoid foreclosure on the mortgage on their home.

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Under LRCiv 7.2(i), if a party “does not serve and file the required answering memoranda . . . such noncompliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily.” We also construe plaintiffs’ failure to respond to the motion to dismiss as a failure to prosecute this action under Rule 41(b), Fed. R. Civ. P.

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Therefore, pursuant to Rule 41(b) and LRCiv 7.2(i), **IT IS ORDERED GRANTING**
defendants' motion to dismiss (doc. 6).

DATED this 21st day of May, 2009.

Frederick J. Martone

Frederick J. Martone
United States District Judge