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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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9 Michael L. Bower,

10 Plaintiff,

11 v.

12 Capital One Bank (USA) NA; Gurstel  
13 Chargo PA,

14 Defendants.

No. CV-12-8060-PCT-GMS

**ORDER**

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16 Pending before the Court is Defendant Capital One Bank's Motion to Dismiss for  
17 Failure to State a Claim. (Doc. 8). Plaintiff has not filed a response to the motion and the  
18 time for doing so has expired. For the reasons discussed below, Defendant's motion is  
19 granted.

20 **BACKGROUND**

21 On February 14, 2012, pro se plaintiff Michael J. Bower filed a complaint against  
22 Defendants in Mohave County Justice Court, alleging civil racketeering and a violation  
23 of the Fair Debt Collection Act (FDCA). (Doc. 1, Ex. 3). Capital One Bank then  
24 removed the case to this Court and served plaintiff with a copy of the Notice of Removal.  
25 (Doc. 1). On April 9, 2012, Capital One filed its 12(b)(6) Motion to Dismiss for Failure  
26 to State a Claim (Doc. 8) and Defendant Gurstel Chargo later joined in its Motion. (Doc.  
27 9). Plaintiff failed to respond within the fourteen-day period, as required under LRCiv  
28 7.2(c). On May 2, 2012, this court warned the Plaintiff that failure to respond to the

1 motion by May 16, 2012 may be construed as consent to dismissal of his case. However,  
2 as of the date of this order, Plaintiff has failed to file a response.

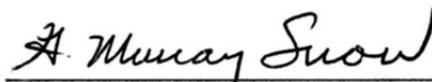
3 **DISCUSSION**

4 LRCiv 7.2(i) provides that an unrepresented party's failure to respond to a motion  
5 "may be deemed a consent to the . . . granting of the motion and the Court may dispose of  
6 the motion summarily." This Circuit insists that "[p]ro se litigants must follow the same  
7 rules of procedure that govern other litigants." *King v. Atiyeh*, 814 F.2d 565, 567  
8 (9th Cir. 1986).

9 The Court has afforded Plaintiff ample time to respond to Defendants' motion and  
10 has warned him that failure to do so could result in the granting of the motion. However,  
11 Plaintiff has neither filed a responsive memorandum nor taken any other action.  
12 Moreover, upon review of Defendants' Motion to Dismiss, the Court determined it has  
13 merit. The Court will therefore grant Defendants' motion to dismiss with prejudice.

14 **IT IS THEREFORE ORDERED** that Defendants' Motion to Dismiss for Failure  
15 to State a Claim (Doc. 8) is **GRANTED**.

16 Dated this 31st day of May, 2012.

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19 G. Murray Snow  
20 United States District Judge  
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