

O

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
CENTRAL DISTRICT OF CALIFORNIA**

KALE KEPEKAIIO GUMAPAC and
DIANNE LEE GUMAPAC,

Plaintiffs,

v.

DEUTSCHE BANK NATIONAL TURST
COMPANY, AS TRUSTEE FOR THE
BENEFIT OF THE CERTIFICATE
HOLDERS FOR ARGENT SECURITIES,
INC., ASSET-BACKED PASS-
THROUGH CERTIFICATES, SERIES
2006-W2; DEUTSCHE BANK
NATIONAL TRUST COMPANY, N.A.,
AS TRUSTEE FOR THE BENEFIT OF
THE CERTIFICATE HOLDERS FOR
ARGENT SECURITIES, INC., ASSET-
BACKED PASS-THROUGH
CERTIFICATES, SERIES 2006-W2;
DEUTSCHE BANK NATIONAL TRUST
COMPANY, LLC.; ARGENT
SECURITEIS; and DOES 1-10,

Defendants.

Case No. 2:11-cv-10767-ODW (CWx)

**Order GRANTING Defendants’ Motion
to Dismiss [5] and DENYING AS
MOOT the Parties’ Joint Stipulation to
Continue Date for Hearing [12]**

Presently before the Court is Defendants Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc., Asset-Backed Pass-Through Certificates, Series 2006-W2 and Deutsche Bank National Trust Company, LLC’s (“Defendants”) Motion to Dismiss Plaintiffs Kale Kepekaio Gumapac and Dianne Lee

1 Gumapac’s (“Plaintiffs”) Complaint. (Dkt. No. 5.) Because Plaintiffs have not filed
2 any opposition, and for the reasons discussed in Defendants’ papers, the Court
3 **GRANTS** Defendants’ Motion to Dismiss.

4 Central District of California Local Rule 7-9 requires an opposing party to file
5 an opposition to any motion at least twenty-one (21) days prior to the date designated
6 for hearing the motion. C. D. Cal. L. R. 7-9. Additionally, Local Rule 7-12 provides
7 that “[t]he failure to file any required paper, or the failure to file it within the deadline,
8 may be deemed consent to the granting or denial of the motion.” C. D. Cal. L. R. 7-
9 12.

10 The hearing on Defendants’ Motion was set for March 12, 2012. Plaintiffs’
11 opposition was therefore due by February 20, 2012. Because February 20, 2012, was
12 a court holiday, Plaintiffs’ opposition was therefore due by February 21, 2012. *See*
13 Fed. R. Civ. P. 5(a)(1)(C). As of the date of this Order, Plaintiffs have not filed an
14 opposition, nor any other filing that could be construed as a request for a continuance.
15 Plaintiff’s failure to oppose may therefore be deemed consent to the granting of
16 Defendant’s Motion.

17 Nevertheless, the Court has carefully considered Defendant’s arguments in
18 support and finds them well taken. The Court specifically notes that Plaintiffs bring
19 their Complaint in federal court based upon Plaintiffs’ theory that diversity of
20 citizenship exists under 28 U.S.C. § 1332. Nevertheless, Plaintiffs allege that both
21 Plaintiffs and Ticor Title Insurance, Inc.—named as a “party and participant” in this
22 matter—are citizens of Hawaii. (Compl. ¶¶ 1, 15.) In addition, Plaintiffs fail to plead
23 that the amount in controversy in this case exceeds \$75,000.00. *See* 28 U.S.C.
24 § 1332(a). Accordingly, this Court finds that it lacks jurisdiction over this case. For
25 this reason, and for the additional reasons discussed in Defendants’ papers, the Court

26 ///

27 ///

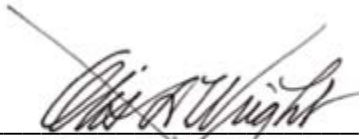
28 ///

1 hereby **GRANTS** Defendants' Motion to Dismiss Plaintiffs' Complaint. The March
2 12, 2012 hearing on this matter is **VACATED**, and no appearances are necessary. In
3 addition, the parties' February 24, 2012 Joint Stipulation to Continue Hearing (Dkt.
4 No. 12) is **DENIED AS MOOT**.

5 Plaintiffs may file an amended complaint within fourteen (14) days from the
6 date of this Order, provided they can allege in good faith additional facts to support
7 their claims and this Court's jurisdiction over such claims. If Plaintiffs fail to file an
8 amended complaint within fourteen (14) days, the Court will dismiss all claims
9 against Defendants with prejudice.

10
11 **IT IS SO ORDERED.**

12
13 February 27, 2012

14
15 

16 **HON. OTIS D. WRIGHT II**
17 **UNITED STATES DISTRICT JUDGE**