

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

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<b>Case No.</b>	2:14-cv-05537-CAS(ASx)	<b>Date</b>	October 6, 2014
<b>Title</b>	CARMEN RISIGLIONE ET AL. V. MARTINGALE INVESTMENTS LLC ET AL.		

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<b>Present: The Honorable</b>	CHRISTINA A. SNYDER
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Catherine Jeang	Laura Elias	N/A
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Deputy Clerk	Court Reporter / Recorder	Tape No.
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Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

William Brown, Jr.  
Helen Cayton

**Proceedings:** DEFENDANTS MARTINGALE INVESTMENTS, LLC, SAM CHANDRA, AND FIRST AMERICAN TITLE INSURANCE COMPANY’S MOTION TO DISMISS(Filed 08/29/14)[10] and (Filed 09/03/14)[11]

DEFENDANT QUALITY LOAN SERVICES CORPORATION’S  
MOTION TO DISMISS (Filed 09/18/14)[14]

On July 16, 2014, plaintiffs Carmen and Daniel Risiglione filed this action against defendants Martingale Investments, LLC, Quality Loan Services Corp., First American Title Insurance Company, Sam Chandra, and Does 1-10 (collectively, “defendants”). Dkt. 1. Plaintiff asserts claims for (1) quiet title and adverse possession; (2) fraud; (3) violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, *et seq.* (“RICO”); (4) violations of the Fair Debt Collections Practices Act, 15 U.S.C. § 1661, *et seq.* (“FDCPA”); (5) violation of the Consumer Credit Protection Act, 15 U.S.C. § 1601, *et seq.* (“CCPA”); (6) violation of 42 U.S.C. § 1981; (7) violation of 42 U.S.C. § 1983; (8) violation of 42 U.S.C. § 1985; (9) conspiracy against rights in violation of 18 U.S.C. § 241; (10) breach of the duty of good faith and fair dealing; (11) breach of contract; (12) tortious interference with business contracts; (13) violation of the “Deceptive Trade Practices statutes of this state”; (14) invasion of privacy in violation of the U.S. Constitution and the California Constitution; (15) trespass; (16) civil conspiracy; (17) unjust enrichment; (18) negligent misrepresentation; and (19) cancellation of fraudulent mortgage. Plaintiffs also seek injunctive and declaratory relief.

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On August 29, 2014, defendants Martingale Investments, LLC, and Sam Chandra filed a motion to dismiss pursuant to Federal Rule of Procedure 12(b)(6). Dkt. 10. Defendant First American Title Insurance joined this motion on September 3, 2014. Dkt. 11. Defendant Quality Loan Services Corp., filed a motion to dismiss on September 18, 2014. Dkt. 14.

Plaintiffs did not oppose defendants' motions, and did not attend the Court's October 6, 2014 hearing. Pursuant to Local Rule 7-12, failure to file an opposition may be deemed consent to the granting of a motion. Accordingly, defendants' motions to dismiss are hereby GRANTED without prejudice.

Moreover, the Court notes that plaintiffs' complaint fails to state a claim for relief. Although plaintiffs' complaint contains many allegations, plaintiffs do not support these allegations with specific facts regarding defendants' allegedly unlawful conduct. Rule 8(a) of the Federal Rules of Civil Procedure requires sufficient factual allegations to put the defendants fairly on notice of the claims against them. McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1991). Further, Rule 9(b) of the Federal Rules of Civil Procedure requires plaintiffs to plead their fraud claims with even greater particularity. Specifically, Rule 9(b) requires plaintiffs to "identify the 'who, what, when, where and how of the misconduct charged,' as well as 'what is false or misleading about [the purportedly fraudulent conduct], and why it is false.'" Cafasso, ex rel. United States v. Gen. Dynamics C4 Sys., Inc., 637 F.3d 1047, 1055 (9th Cir. 2011) (quoting Ebeid ex rel. United States v. Lungwitz, 616 F.3d 993, 998 (9th Cir. 2010)). If plaintiffs file an amended complaint, they are advised to comply with Rules 8(a) and 9(b).

In accordance with the foregoing, the Court GRANTS without prejudice defendants' motions to dismiss plaintiffs' complaint. Plaintiffs shall have until **Thursday, November 6, 2014** to file an amended complaint. If plaintiffs do not file an amended complaint by this date, the complaint will be dismissed with prejudice.

IT IS SO ORDERED.

Initials of Preparer

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CMJ