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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

| | | |
|------------------------------|---|---|
| KELLY RANDLE; FRED MITCHELL, |) | Case No. ED CV 14-02280 DDP (SPx) |
| |) | |
| Plaintiff, |) | |
| |) | ORDER RE: DEFENDANT'S MOTION FOR |
| v. |) | JUDGMENT ON THE PLEADINGS |
| |) | |
| LNV CORPORATION; ALL PERSONS |) | |
| UNKNOWN CLAIMING ANY LEGAL |) | |
| OR EQUITABLE RIGHT, TITLE, |) | |
| ESTATE, LIEN OR INTEREST IN |) | |
| THE PROPERTY DESCRIBED IN |) | |
| THE COMPLAINT ADVERSE TO |) | |
| PLAINTIFF'S TITLE, OR ANY |) | |
| CLOUD ON PLAINTIFF', |) | |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |
| _____ |) | |

This is not the first suit Plaintiffs have filed to challenge the foreclosure on property located at 1579 Cedarspring Drive in Hemet, California or Defendant's subsequent efforts to take possession of the property. One such effort in this court, Kelly L. Randle v. Beal Bank USA, No. ED CV-13-00763 DDP, was dismissed when Plaintiffs failed to oppose a Motion to Dismiss.¹

¹ Other, similar suits named the Kelly Lynn Randle Family Trust as Plaintiff. (RJN Exs. K, L.)

1 (Defendant's Request for Judicial Notice ("RJN") Exs. N, O).
2 Plaintiffs also removed unlawful detainer cases to this court eight
3 times. See No. EDCV 14-0631 JGB, Dkt. 19 ("Vexatious Litigant
4 Order"). Each time, this court remanded to state court. (Id. at
5 2-3, 5.) Judgment was ultimately entered in Defendant's favor in
6 state court, and Defendant was awarded possession of the property.
7 (RJN Ex. H).

8 The instant suit was filed in state court prior to resolution
9 of the unlawful detainer action. Defendant LNV Corporation later
10 removed to this court. Presently before the court is Defendant LNV
11 Corporation's Motion for Judgment on the Pleadings in the instant
12 case. (Dkt. 78). As an initial matter, the court notes that
13 Defendant is correct that this court has declared Plaintiffs to be
14 vexatious litigants, and has entered a Pre-Filing Order against
15 them. (Vexatious Litigant Order at 10.) Nevertheless, Defendant's
16 contention that Plaintiffs' First Amended Complaint is subject to
17 the Pre-Filing Order's screening provisions is misplaced. The Pre-
18 Filing Order requires Plaintiffs to obtain leave of the court prior
19 to filing any complaint or notice of removal related to the
20 foreclosure or unlawful detainer efforts. (Id. at 10.) Here,
21 however, Plaintiffs did not file a Complaint or Notice of Removal
22 in this court. Plaintiffs filed their Complaint and First Amended
23 Complaint in state court. It was Defendant's, not Plaintiffs',
24 choice to remove to this court.²

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27 ² There is no indication in the documents presented whether
28 the state court has declared Plaintiffs to be vexatious litigants.

1 In any event, Defendant now moves for judgment on the
2 pleadings under Rule 12(c). Defendant contends that, among other
3 arguments, Plaintiffs' claims are barred as res judicata or by
4 collateral estoppel. Plaintiffs' opposition to the motion appears
5 to be contained within a document titled "Ex Parte Application to
6 Strike Defendants' Answer to the FAC and to Deny Defendants' Motion
7 for Judgment on the Pleadings." (Dkt. 98.) That document,
8 however, is essentially non-responsive to Defendant's motion. The
9 only argument presented in Plaintiffs' opposition is that
10 Defendant's Answer should be stricken and the instant motion denied
11 because Defendant claimed at one point that it had not been served
12 with a Summons and Complaint or First Amended Complaint. (Dkt. 98
13 at 1-2.) Plaintiffs argue, therefore, that Defendant "is incapable
14 as a matter of law from filing" a motion or answer. (Id. at 1-2.)

15 Plaintiffs do not cite, nor is the court aware of, any
16 authority for Plaintiffs' argument. Given Plaintiffs' failure to
17 even address the arguments raised in Defendant's motion, the court
18 GRANTS the motion. See C.D. Cal. L.R. 7-9; Wyatt v. Liljenquist,
19 96 F.Supp.2d 1062, 1065 (C.D. Cal. 2000).

20 For these reasons, Plaintiff's First Amended Complaint is
21 DISMISSED. Defendant's Ex Parte Application to Expunge Lis Pendens
22 recorded against real property located at 1579 Cedarspring Drive,
23 Hemet, California 92545 is GRANTED. (Dkt. 111). Defendant's
24 request for fees and costs is DENIED. All other pending motions
25 and applications are DENIED.

26 IT IS SO ORDERED.

27 Dated: June 15, 2015

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DEAN D. PREGERSON
United States District Judge