

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

**EL SOBRANTE DEVELOPMENT,
L.L.C, et al.,**

Plaintiff,

v.

**NATIONAL ASSURANCE GROUP,
INC., et al.,**

Defendants.

1: 08-CV-0455 AWI DLB

**ORDER MOVING SEPTEMBER 28,
2009 HEARING and ORDER
DISMISSING DEFENDANT PAMELA
BLAIR UNDER RULE OF CIVIL
PROCEDURE 4(m)**

This is a case involving the foreclosure of various parcels of land and several groups of Defendants. Currently set for hearing and decision on September 28, 2009, is this Court's order to show cause and Plaintiffs' motion for good faith settlement approval. On September 9, 2009, the Court issued an order to show cause why Defendant Pamela Blair should not be dismissed due to a violation of Rule of Civil Procedure 4(m). The Court also ordered Plaintiffs to file a notice of settlement as to the "Oregon Defendants" and ordered Plaintiffs to clarify whether Blair has a lien on the parcels, how settlement would affect Blair, whether the "Oregon Defendants" were served with the settlement papers involving the "Winter Defendants," and whether the "Oregon Defendants" consented to the settlement with the "Winter Defendants."

On September 18, 2009, Plaintiffs' counsel filed a declaration. Counsel declares that:
(1) Pamela Blair has no lien and that Plaintiffs will dismiss her from the case prior to September

1 28, 2009; (2) he believed that a settlement had been reached with the Oregon Defendants, but
2 that the papers have not been signed and that settlement negotiations are still taking place; (3) if a
3 resolution has not been achieved within thirty (30) days, then Plaintiff will direct the Oregon
4 Defendants to either file an answer or else a default will be taken; and (4) the Oregon Defendants
5 will be immediately served with the motion for good faith settlement with the Winter
6 Defendants. See Court's Docket Doc. No. 55. Counsel then requests a continuance to ensure
7 that the Oregon Defendants receive notice and/or consent.

8 With respect to Pamela Blair, counsel's declaration does not address Rule 4(m), but does
9 indicate that Plaintiffs intend to dismiss her. Given counsel's declaration and that well more than
10 120 days have elapsed without service of the complaint, the Court will dismiss Blair without
11 prejudice for violation of Rule of Civil Procedure 4(m). See Fed. R. Civ. Pro. 4(m); Johnson v.
12 Meltzer, 134 F.3d 1393, 1396 (9th Cir. 1998).

13 As for the Oregon Defendants, the Court will grant a continuance to ensure that notice
14 and/or consent to the motion for good faith settlement is achieved.

15
16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. Defendant Pamela Blair is DISMISSED without prejudice as per Federal Rule of Civil
18 Procedure 4(m);
- 19 2. The September 28, 2009, hearing on Plaintiffs' motion for good faith settlement is
20 VACATED and the hearing is RESET to October 26, 2009, at 1:30 p.m. in Courtroom 2;¹
21 and
- 22 3. If a settlement is achieved with the Oregon Defendants, Plaintiffs are to file a notice
23 immediately with this Court as per Local Rule 16-160.

24 IT IS SO ORDERED.

25 **Dated: September 21, 2009**

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE

26
27 ¹The Court resets the hearing with the understanding that Plaintiffs have now served the Oregon Defendants
28 with the motion for good faith settlement.