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

P. ORB HATTON, an individual, and DIANE HATTON, an individual,

Plaintiffs,

v.

BANK OF AMERICA, N.A., a national association; BSI FINANCIAL SERVICES, a business entity; and Does 1 through 100, inclusive,

Defendants.

Case No. 1:15-cv-00187-GSA

**ORDER TO SHOW CAUSE RE:
BRIEFING ON MOTION TO DISMISS**

Defendant BSI Financial Services (“Defendant”) filed a Motion to Dismiss Plaintiffs’ First Amended Complaint under Federal Rule of Civil Procedure 12(b)(6) on August 20, 2015 and noticed the hearing on that motion for September 25, 2015. (ECF No. 56.) Under Local Rule 230(c), any opposition to the Motion was to be “filed and served not less than fourteen (14) days preceding the noticed (or continued) hearing date. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question.” Thus, Plaintiffs were required to file an opposition brief to the Motion or a notice of non-opposition to the Motion no later than September 11, 2015. Plaintiffs have filed

1 no such responsive pleading.

2 The Court understands that Plaintiffs are proceeding *pro se* in this matter after the
3 withdrawal of their counsel on August 13, 2015. (ECF No. 54.) As explained in the order granting
4 the motion to withdraw as counsel, however, Plaintiffs are still “responsible for complying with
5 all court rules and applicable laws.” (ECF No. 54.) The Court reiterated this instruction on
6 September 1, 2015, in its First Informational Order for Pro Se Litigants. (ECF No. 59.) At the
7 same time, the Court is mindful that “it has a duty to ensure that pro se litigants do not lose their
8 right to a hearing on the merits of their claim due to ignorance of technical procedural
9 requirements.” *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1990).

10 Accordingly, Plaintiffs are ordered to show cause, if any, why the Motion to Dismiss the
11 First Amended Complaint should not be granted for failure to comply with Local Rule 230(c)
12 and/or a failure to prosecute their claim. Plaintiffs shall file, no later than **October 9, 2015**, either
13 an opposition to the Motion to Dismiss or a notice of non-opposition to the Motion to Dismiss.
14 The filing of either will vacate this Order to Show Cause. ***Failure to timely respond to this Order***
15 ***to Show Cause may result in sanctions, up to and including the dismissal of this action.***
16 Defendant BSI Financial Services may, if desired, file a reply to any response filed by Plaintiffs
17 no later than **October 16, 2015**.

18 The hearing currently scheduled for September 25, 2015 is VACATED. The parties will
19 be notified if the Court determines that a hearing on the Motion is required in the future. As the
20 hearing is vacated, Defendant’s Request for Telephonic Appearance (ECF No. 60) is DENIED
21 AS MOOT.

22
23 IT IS SO ORDERED.

24 Dated: September 23, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE