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

**DEBORAH McHENRY, an individual; and
KARL ZUMWALT, and individual,**

Plaintiffs,

v.

OCWEN LOAN SERVICING, LLC, et al.,

Defendants.

1:15-CV-01751 LJO SMS

**ORDER DIRECTING CLERK OF
COURT TO TERMINATE
PLAINTIFFS’ COUNSEL AND
PERMITTING PLAINTIFFS TO
PROCEED PRO SE FOR PURPOSES
OF DISMISSAL**

This action, which concerns a mortgage loan securing property in Auberry, California, was removed from the Superior Court of California for the County of Fresno by Defendants Federal Home Mortgage Corporation and Ocwen Loan Servicing, LLC. On January 19, 2016, Plaintiffs submitted a letter indicating that they “wish to discontinue [their] lawsuit” because their attorney “John Fennacy has been disbarred.” Doc. 7. Plaintiffs indicate they “have been unable to locate another attorney” and that “[a]lthough [they] have reason to believe [they] could win this case, [they] are unable to proceed and are not willing to represent [themselves].” *Id.*

Although the State Bar of California currently still lists Plaintiffs’ counsel, John Patrick Fennacy as an active member of the bar in good standing, the Court has contacted the Superior Court for the

1 County of San Luis Obispo and confirmed that Mr. Fennacy has been convicted and sentenced on a
2 felony charge in that jurisdiction. *See* San Luis Obispo Superior Court Case No. 15-F01562. Counsel's
3 disbarment is therefore imminent. Accordingly, the Clerk of Court is directed to terminate Mr. Fennacy
4 as counsel of record in this case, allowing Plaintiffs to proceed without counsel for purposes of
5 dismissal.

6 Plaintiffs are informed that because Defendants Federal Home Mortgage Corporation and Ocwen
7 Loan Servicing, LLC have already filed an answer in this case, Doc. 5, the Court cannot dismiss this
8 case without the consent of those Defendants. *See*. Fed. R. Civ. Pro. 41(a)(1)(A)(ii). Once Mr. Fennacy
9 is terminated as counsel for Plaintiffs, Defense counsel may contact Plaintiffs directly to arrange for a
10 stipulated dismissal

11
12 IT IS SO ORDERED.

13 Dated: February 9, 2016

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE