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

SAINT CHARLES THURMAN;
GWEN THURMAN;

Plaintiffs,

No. CIV S-09-3358 JAM EFB PS

vs.

FREMONT INVESTMENT & LOAN;
UNITED HOME MORTGAGE;
BARCLAYS CAPITAL REAL ESTATE
CORPORATION dba HOMEQ SERVICING;
WELLS FARGO BANK, N.A.; QUALITY
LOAN SERVICE CORPORATION, and
DOES 1 through 10,

Defendants.

ORDER

_____ /
This case, in which plaintiffs are proceeding *pro se*, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On December 2, 2009, defendants Barclay Capital Real Estate Corporation dba Homeq Servicing and Wells Fargo Bank, N.A., removed this action from Solano County Superior Court based on federal question jurisdiction. Dckt. No. 1. On December 15, 2009, defendants filed a motion to dismiss plaintiffs' complaint, and noticed the motion for hearing on January 20, 2010. Dckt. No. 5. Because plaintiffs did not timely file an opposition or statement of non-opposition to the motion, on January 13, 2010, the undersigned issued an order requiring plaintiffs to show cause why they

1 should not be sanctioned for that failure, requiring plaintiffs to file an opposition or a statement
2 of non-opposition to the motion no later than February 10, 2010, and continuing the hearing on
3 the motion to February 24, 2010. Dckt. No. 8.

4 On February 10, 2010, plaintiff filed an opposition to the motion and a response to the
5 order to show cause, stating that they are homeless and on social security disability status and are
6 responding to the court “with the best of their ability.” Dckt. No. 9. In the filing, plaintiffs also
7 request that the court “grant Plaintiffs more time to submit opposition and to amend complaint.”
8 *Id.* at 1.

9 In light of plaintiffs’ request for further time to oppose defendants’ motion and request
10 for leave to amend their complaint, the hearing date of February 24, 2010 on defendant’s motion
11 to dismiss is continued to April 7, 2010, at 10:00 a.m., in Courtroom No. 24. *See* L.R. 230(e)
12 (“Any counter-motion or other motion that a party may desire to make that is related to the
13 general subject matter of the original motion shall be served and filed with the Clerk in the
14 manner and on the date prescribed for the filing of opposition. In the event [such a] motion is
15 filed, the Court may continue the hearing on the original and all related motions so as to give all
16 parties reasonable opportunity to serve and file oppositions and replies to all pending motions.”).
17 Plaintiffs will be provided additional time to file a further opposition to the motion. Plaintiffs’
18 motion for leave to amend will also be heard on April 7, 2010, at 10:00 a.m., in Courtroom No.
19 24, and a briefing schedule for that motion is set forth below.

20 Accordingly, good cause appearing, IT IS HEREBY ORDERED that:

21 1. The hearing date of February 24, 2010 on defendants’ motion to dismiss, Dckt. No. 5,
22 is continued to April 7, 2010, at 10:00 a.m., in Courtroom No. 24.

23 2. Plaintiffs may file a further opposition to defendants’ motion to dismiss on or before
24 March 17, 2010, and defendants may file a reply thereto on or before March 24, 2010.

25 3. Plaintiffs’ motion for leave to amend their complaint, Dckt. No. 9, is scheduled for
26 hearing on April 7, 2010, at 10:00 a.m., in Courtroom No. 24.

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4. Defendants may file an opposition or a statement of non-opposition to plaintiffs' motion to amend on or before March 17, 2010, and plaintiffs may file a reply thereto on or before March 24, 2010.

5. The status (pretrial scheduling) conference currently scheduled for April 7, 2010, is continued to June 30, 2010, at 10:00 a.m., in Courtroom No. 24. On or before June 16, 2010, the parties shall file status reports, as required by this court's December 3, 2009 order.

6. The January 13, 2010 order to show cause, Dckt. No. 8, is discharged.

IT IS SO ORDERED.

DATED: February 18, 2010.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE