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

10 TERESA J. MOORE;
11 GERTRUDE V. VIZMANOS,

12 Plaintiffs,

No. CIV S-10-2445 FCD EFB PS

13 vs.

14 BANK OF AMERICA; RECONTRUST
15 COMPANY; US BANK NATIONAL
16 ASSOCIATION; HARBORVIEW 2006-1
17 TRUST; AMIR ENTERPRISES LLC;
18 MELVIN STRONG; JUDY SCHILLING;
19 HADI R. SAYID-ALI; ED TURNER; and
20 DOES 1-100,

21 Defendants.

ORDER

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23 This case, in which plaintiffs are proceeding pro se, is before the undersigned pursuant to
24 Eastern District of California Local Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On September
25 13, 2010, plaintiffs Teresa Moore and Gertrude Vizmanos filed a complaint alleging, among
26 other things, wrongful foreclosure, quiet title, and violations of various federal and state law
statutes. Dckt. No. 1. On September 28, 2010, plaintiffs filed an ex parte motion for the
approval of the recordation of the notice of pending action. Dckt. No. 4.

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1 On November 12, 2010, defendant Judy Schilling filed a motion to dismiss plaintiff
2 Moore's complaint.¹ Dckt. No. 8. That motion is noticed for hearing on January 12, 2011.
3 Dckt. No. 11.

4 However, on December 16, 2010, plaintiff Teresa Moore filed a notice of voluntary
5 dismissal pursuant to Federal Rule of Civil Procedure ("Rule") 41(a)(1)(A)(1) stating that she
6 was seeking to dismiss her claims against all defendants. Dckt. No. 15. Therefore, on December
7 22, 2010, the undersigned issued an order and findings and recommendations, (1) noting that
8 upon the filing of her revised notice of voluntary dismissal, Moore's claims against all
9 defendants except defendant Ed Turner were voluntarily dismissed; and (2) recommending that
10 Moore's claims against defendant Turner be dismissed without prejudice pursuant to Rule
11 41(a)(2) and that Moore be permitted to withdraw as a plaintiff in this action. Dckt. No. 16.
12 Since defendant Schilling's motion only seeks to dismiss plaintiff's Moore's complaint, and that
13 complaint has already been dismissed as to defendant Schilling, Schilling's motion is denied as
14 moot.

15 Additionally, because plaintiffs' ex parte motion for the approval of the recordation of
16 the notice of pending action, Dckt. No. 4, does not comply with Local Rule 230, that motion is
17 denied without prejudice. If plaintiff Vizmanos seeks to re-file the motion, she shall do so in
18 accordance with the Local Rules.

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21 ¹ Also, on October 19, 2010, defendants Bank of America, N.A., ReconTrust Company,
22 N.A., and U.S. Bank National Association, as Trustee for Harborview 2006-1 Trust Fund, filed a
23 motion to dismiss plaintiffs' complaint for failure to state a claim, and a motion to deny
24 plaintiffs' ex parte motion for the approval of the recordation of the notice of pending action.
25 Dckt. No. 5. The motion was noticed for hearing on December 3, 2010. *Id.* However, because
26 the motion was improperly noticed for hearing before the assigned district judge, a minute order
was issued vacating that hearing and directing those defendants to re-notice their motion before
the undersigned. Dckt. No. 6. Defendants failed to do so; therefore, their motion is not currently
scheduled to be heard.

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

2 1. Defendant Schilling's motion to dismiss, Dckt. No. 8, is denied as moot, and the
3 January 12, 2011 hearing thereon is vacated;

4 2. Plaintiffs' ex parte application motion for the approval of the recordation of the notice
5 of pending action, Dckt. No. 4, is denied without prejudice;

6 3. Within fourteen days from the date of this order, defendants Bank of America, N.A.,
7 ReconTrust Company, N.A., and U.S. Bank National Association, as Trustee for Harborview
8 2006-1 Trust Fund, shall re-notice their motion to dismiss, file a revised motion to dismiss, or
9 file an answer to plaintiff Vizmanos's complaint;

10 4. The status (pretrial scheduling) conference currently set for January 19, 2011 is
11 continued to April 13, 2011; and

12 5. On or before March 30, 2011, the parties shall file status reports, as required by the
13 order issued on September 13, 2010, Dckt. No. 3.

14 SO ORDERED.

15 DATED: December 29, 2010


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE