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

Carolina Johnson and Claude Colwell,)	
)	2:10-cv-02567-GEB-KJN
Plaintiff,)	
)	<u>ORDER VACATING DISMISSAL</u>
v.)	<u>ORDER AND CONTINUING STATUS</u>
)	<u>(PRETRIAL SCHEDULING)</u>
Bank United F.S.B., Bank United, Freestand Financial, and Does 1-50, inclusive,)	<u>CONFERENCE</u>
)	
Defendants.)	
_____)	

On April 19, 2011, Plaintiffs filed a "Statement Regarding Order Dismissing Defendants Bank United F.S.B. and Freestand Financial," in which they request to be heard concerning the Federal Rule of Civil Procedure ("Rule") 4(m) dismissal of these defendants, "or, in the alternative . . . request the Court modify [the April 18, 2011 Order of Dismissal]." (ECF No. 20, 2:8-10.) Plaintiffs argue the April 18, 2011 Order of Dismissal "conflicts with the direction given in [the March 8, 2011 Order Continuing Status Conference and Rule 4(m) Notice ("4(m) Notice")]."
Id. at 2:6-7. Specifically, Plaintiffs state the 4(m) Notice "gave Plaintiffs until April 25, 2011 to show cause in a written statement why Defendants had not been served."
Id. at 7-8.

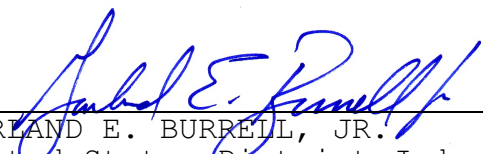
Plaintiffs are incorrect. The 4(m) Notice states that Plaintiffs were required to provide proof of service or show "good cause" for their failure to serve Bank United F.S.B. and Freestand

1 Financial by March 14, 2011. (ECF No. 16, 1:19-24.) The April 25, 2011
2 date on which Plaintiffs rely is the date by which Plaintiffs had to
3 take the steps necessary to prosecute this action as a default matter
4 against these defendants, if they had been served. Id. at 1:25-2:4.
5 Nevertheless, the Court will consider Plaintiffs' request in their April
6 19, 2011 filing that they be given an additional ninety days to serve
7 Bank United F.S.B. and Freestand Financial. (ECF No. 20, 2:11-18.)

8 Plaintiffs state the following in support of their request for
9 additional time to serve Bank United F.S.B. and Freestand Financial:
10 "Plaintiffs have been diligently pursuing service of Unserved Defendants
11 but due to Unserved Defendants status in Bankruptcy, service has not
12 been possible. Plaintiffs are now researching the insurance coverage of
13 Unserved Defendants to see if any assets due to insurance coverage
14 remain available." (ECF No. 20, 2:12-16.) Therefore, the April 18, 2011
15 Order of Dismissal (ECF No. 18) is VACATED. Plaintiffs have sixty (60)
16 days from the date this Order is filed within which to serve Defendants
17 Freestand Financial and Bank United F.S.B.

18 Further, the Status (Pretrial Scheduling) Conference is
19 continued to September 19, 2011 at 9:00 a.m. A further joint status
20 report shall be filed no later than fourteen (14) days prior the
21 Conference.

22 Dated: May 9, 2011

23
24 
25 _____
26 GARLAND E. BURRELL, JR.
27 United States District Judge
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