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

IVAN ROTARU,
RAISA ROTARU,

No. CIV S-10-3036 WBS EFB PS

Plaintiffs,

vs.

PNC MORTGAGE; CAL-WESTERN
RECONVEYANCE; NATIONAL
CITY MORTGAGE,

ORDER AND
ORDER TO SHOW CAUSE

Defendants.

_____ /

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 November 10, 2010, defendant PNC Bank, National Association, as successor by merger to National City Bank, previously dba National City Mortgage (named as “PNC Mortgage” and “National City Mortgage”) (“PNC”) removed this action from Sacramento County Superior Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, on the ground that plaintiffs’ complaint alleges federal claims. Dckt. No. 1. Then, on November 17, 2010, PNC moved to dismiss and to strike plaintiff’s complaint. Dckt. Nos. 12, 13. The motions were noticed to be heard on December 29, 2010. *Id.*

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1 Court records reflect that plaintiffs have filed neither an opposition nor a statement of
2 non-opposition to defendants' motions. Local Rule 230(c) provides that opposition to the
3 granting of a motion, or a statement of non-opposition thereto, must be served upon the moving
4 party, and filed with this court, no later than fourteen days preceding the noticed hearing date or,
5 in this instance, by December 15, 2010. Local Rule 230(c) further provides that "[n]o party will
6 be entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has
7 not been timely filed by that party."

8 Local Rule 183, governing persons appearing in pro se, provides that failure to comply
9 with the Federal Rules of Civil Procedure and Local Rules may be ground for dismissal,
10 judgment by default, or other appropriate sanction. Local Rule 110 provides that failure to
11 comply with the Local Rules "may be grounds for imposition by the Court of any and all
12 sanctions authorized by statute or Rule or within the inherent power of the Court." *See also*
13 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) ("Failure to follow a district court's local rules
14 is a proper ground for dismissal."). Pro se litigants are bound by the rules of procedure, even
15 though pleadings are liberally construed in their favor. *King v. Atiyeh*, 814 F.2d 565, 567 (9th
16 Cir. 1987).

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

18 1. The hearing on defendants' motions to dismiss and to strike, Dckt. Nos. 12 and 13, is
19 continued to February 16, 2011.

20 2. Plaintiffs shall show cause, in writing, no later than February 2, 2011, why sanctions
21 should not be imposed for failure to timely file an opposition or a statement of non-opposition to
22 the pending motions.

23 3. Plaintiffs shall file an opposition to the motions, or a statement of non-opposition
24 thereto, no later than February 2, 2011.

25 4. Failure of plaintiffs to file an opposition will be deemed a statement of non-opposition
26 to the pending motions, and may result in a recommendation that this action be dismissed for

1 lack of prosecution. *See* Fed. R. Civ. P. 41(b).

2 5. Defendants may file a reply to plaintiffs' opposition(s), if any, on or before February
3 9, 2011.

4 SO ORDERED.

5 DATED: December 22, 2010.



EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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