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

TRACIE DOTSON & LINDSEY MURPHY,

Plaintiffs,

No. CIV-S-10-3484 KJM DAD

vs.

METROCITI MORTGAGE LLC, et al.,

ORDER AND ORDER TO SHOW CAUSE

Defendants.

On December 30, 2010, this case was removed from state court and on January 6, 2011, defendant BAC Home Loans Servicing filed a motion to dismiss. Plaintiffs have not opposed the motion despite the issuance of an order to show cause and the provision of additional time in which to oppose the motion. It appears, however, that the notice to plaintiffs' counsel was sent to an incorrect address, which was difficult to read on the scanned documents attached to the notice of removal.

Plaintiffs, acting in propria persona, filed a First Amended Complaint on March 16, 2011. It is not timely. Fed. R. Civ. P. 15(a)(1)(B). In addition, because plaintiffs are represented by counsel, the court will not recognize the document filed in propria persona; counsel has not filed a request to withdraw and plaintiffs have not been substituted in propria persona. Under the Rules of this Court, counsel has not been relieved of "the authority and duty" of continued representation of his clients. L.R. 83(d).

1 IT IS THEREFORE ORDERED that:

2 1. The First Amended Complaint, filed March 16, 2011, is stricken;

3 2. The April 6, 2011 hearing on the motion to dismiss is continued until April 27,
4 2011 at 10:00 a.m. in Courtroom Three;

5 3. Plaintiffs' counsel shall file and serve an opposition or notice of non-
6 opposition to the motion to dismiss no later than March 28, 2011; defendant's reply, if any, is
7 due seven days after the opposition is filed;

8 4. The order to show cause filed February 25, 2011 is vacated; counsel is ordered
9 to show cause by March 28, 2010, why he should not be sanctioned \$150.00 for failure to file a
10 responsive pleading to the motion;

11 5. Counsel is also ordered to show cause, by March 28, 2011, why this case
12 should not be dismissed for failure to prosecute;

13 6. A hearing on the order to show cause will be held following the hearing on the
14 motion to dismiss; and

15 7. The Clerk of the Court is directed to serve a copy of this order and ECF No. 8
16 on Gregory Alan Baker, Esq., 3720 Inland Empire Blvd., Suite 100, Ontario, California 91764.

17 DATED: March 21, 2011.

18 2/dots3484.ord

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20 UNITED STATES DISTRICT JUDGE