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

MARCELLA¹ URBANO and
EMMANUEL URBANO,

Plaintiffs,

No. CIV S-11-2088 GEB DAD PS

vs.

COUNTRYWIDE BANK, N.A., et al.,

Defendants.

ORDER TO SHOW CAUSE

Plaintiffs in this matter are proceeding pro se with a civil action arising from mortgage foreclosure proceedings. Plaintiffs commenced the action in the Sacramento County Superior Court on June 7, 2011, by filing a 29-page complaint with four exhibits attached thereto. (Def'ts' Notice of Removal (Doc. No. 1), Ex. 1.) In their complaint plaintiffs allege eight causes of action, two of which arise under federal statutes, and seek monetary damages, statutory damages, punitive damages, injunctive relief, and declaratory relief. (*Id.*) Defendants removed the case from state court on August 5, 2011. The matter has been referred to the undersigned for all purposes encompassed by Local Rule 302(c)(21).

¹ The court's docket reflects the plaintiffs' names as shown on defendants' Notice of Removal (Doc. No. 1). However, attachments to the Notice reflect that the correct spelling of the first plaintiff's first name is "Marcela."

1 On August 11, 2011, defendants filed a motion to dismiss plaintiffs' complaint
2 without leave to amend and with prejudice (Doc. No. 11). The unopposed motion was heard on
3 September 30, 2011, pursuant to defendant's Notice of Motion filed August 16, 2011. (Doc. No.
4 16.) Despite having had ample time to file written opposition or a statement of non-opposition to
5 the motion, plaintiffs did not respond to the properly noticed motion in any manner and did not
6 appear at the hearing of the motion. The court's records reflect that plaintiffs have not filed any
7 document since the case was removed to federal court and have not demonstrated in any way that
8 they intend to prosecute this action on its merits.

9 Pursuant to the Local Rules of Practice for the United States District Court for the
10 Eastern District of California, opposition, if any, to the granting of a motion "shall be in writing
11 and shall be filed and served not less than fourteen (14) days preceding the noticed (or continued)
12 hearing date." Local Rule 230(c). "No party will be entitled to be heard in opposition to a
13 motion at oral arguments if opposition to the motion has not been timely filed by that party." Id.
14 Failure to appear at the hearing of a properly noticed motion may be deemed withdrawal of any
15 written opposition that was timely filed, in the discretion of the court, or may result in the
16 imposition of sanctions. Local Rule 230(i). Failure of a party to comply with the Local Rules or
17 any order of the court "may be grounds for imposition by the Court of any and all sanctions
18 authorized by statute or Rule or within the inherent power of the Court." Local Rule 110. Any
19 individual representing himself or herself without an attorney is bound by the Federal Rules of
20 Civil Procedure, the Local Rules, and all applicable law. Local Rule 183(a). Failure to comply
21 with applicable rules and law may be grounds for dismissal or any other sanction appropriate
22 under the Local Rules. Id.

23 Plaintiffs have failed to comply with Local Rule 230 and have taken no steps to
24 prosecute this action since August 5, 2011. In light of plaintiffs' pro se status and in the interests
25 of justice, the court will provide plaintiffs with an opportunity to show good cause for their
26 conduct along with a final opportunity to respond to defendants' pending motion.

1 IT IS HEREBY ORDERED that:

2 1. Plaintiffs shall show good cause in writing, no later than October 27, 2011, for
3 failing to respond to defendants' motion and shall show why sanctions should not be imposed on
4 them for failing to file timely opposition or non-opposition to the motion and for failing to appear
5 at the properly noticed hearing of the motion;

6 2. Any response to this order must be filed with the court and served on
7 defendants' attorney of record; the response must be accompanied by opposition or a statement
8 of non-opposition to defendants' motion; if plaintiffs file opposition to the motion, they must
9 address all arguments presented in the motion;

10 3. If plaintiffs file opposition to defendants' motion on or before October 27,
11 2011, defendants' reply, if any, shall be filed and served no later than November 10, 2011; and

12 4. Plaintiffs are cautioned that failure to file and serve a written response to this
13 order, along with opposition or a statement of non-opposition to defendants' motion, will be
14 deemed a statement of non-opposition to the granting of defendants' motion to dismiss this
15 action with prejudice and will also constitute grounds for imposing appropriate sanctions,
16 including dismissal of this action with prejudice for failure to comply with court orders and
17 applicable rules and for lack of prosecution. See Fed. R. Civ. P. 41(b).

18 DATED: October 5, 2011.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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