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

SHELLY VON BRINCKEN, et al.,

Plaintiffs,

Case No. 2:12-cv-2594 GEB DAD PS

vs.

MORTGAGECLOSE.COM, INC.,
et al.,

ORDER TO SHOW CAUSE

Defendants

_____ /

Plaintiffs, Shelly Von Brincken and David Wynn Miller, proceeding pro se,
commenced this action on October 18, 2012, by filing a complaint and paying the required filing
fee. The case has therefore been referred to the undersigned pursuant to Local Rule 302(c)(21).

On November 13, 2012, the undersigned issued an order setting a Status (Pretrial
Scheduling) Conference in this matter for March 1, 2013. Pursuant to that order plaintiffs were
to file and serve a status report on or before February 15, 2013. Moreover, within that order
plaintiffs were advised that the failure to file a timely status report, or the failure to appear at the
status conference, could result in a recommendation that this action be dismissed for lack of
prosecution and as a sanction for failure to comply with court orders and applicable rules. See
Local Rules 110 and 183. Plaintiffs were also cautioned that Rule 4(m) of the Federal Rules of

1 Civil Procedure provides that a defendant must be dismissed if service of the summons and
2 complaint is not accomplished on the defendant within 120 days after the complaint was filed.

3 Nonetheless, neither plaintiff filed a status report as required, neither plaintiff
4 appeared at the March 1, 2013 Status Conference and the court's docket reflects that no
5 defendant has been served with process or appeared in this action. Failure of a party to comply
6 with the Local Rules or any order of the court "may be grounds for imposition by the Court of
7 any and all sanctions authorized by statute or Rule or within the inherent power of the Court."
8 Local Rule 110. Any individual representing himself or herself without an attorney is bound by
9 the Federal Rules of Civil Procedure, the Local Rules, and all applicable law. Local Rule 183(a).
10 Failure to comply with applicable rules and law may be grounds for dismissal or any other
11 sanction appropriate under the Local Rules. Id.

12 Here, plaintiffs have failed to comply with an order of this court and have failed to
13 comply with Rule 4 of the Federal Rules of Civil Procedure. In light of plaintiffs' pro se status
14 and in the interests of justice, the court will provide plaintiffs with an opportunity to show good
15 cause for their conduct.

16 Accordingly, the court HEREBY ORDERS that plaintiffs show cause in writing
17 within twenty-one days of the date of this order why this case should not be dismissed for lack of
18 prosecution.¹ Failure to timely file the required writing will result in a recommendation that this
19 case be dismissed.

20 DATED: March 1, 2013.

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23 _____
24 DALE A. DROZD
25 UNITED STATES MAGISTRATE JUDGE

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25 _____
26 ¹ Alternatively, plaintiffs may file a notice of voluntary dismissal pursuant to Rule
41(a)(1)(A)(i) of the Federal Rules of Civil Procedure.