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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KATIE WAY, JOHN WAY, and EDDY WAY,

Plaintiffs,

v.

JPMORGAN CHASE BANK, N.A.;
CALIBER HOME LOANS, INC.; U.S.
BANK, N.A., AS TRUSTEE FOR LSF9
MASTER PARTICIPATION TRUST;
MTC FINANCIAL INC. doing business as
TRUSTEE CORPS,

Defendants.

No. 2:16-cv-02244-TLN-KJN

**ORDER GRANTING DEFENDANTS’
UNOPPOSED MOTIONS TO DISMISS**

This matter is before the Court on the motion to dismiss filed by Defendant MTC Financial Inc. (ECF No. 60), as well as on the separate motion to dismiss filed by Defendants U.S. Bank, N.A. and Caliber Home Loans, Inc. (ECF No. 61). Plaintiffs Katie Way, John Way, and Eddy Way (collectively, “Plaintiffs”) do not oppose the motions. (ECF No. 69.) Accordingly, the motions to dismiss (ECF No. 60; ECF No. 61) are GRANTED.

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1 **I. FACTUAL AND PROCEDURAL BACKGROUND**

2 The operative complaint in this action is Plaintiffs’ Second Amended Complaint, filed on
3 June 6, 2018. (ECF No. 58.) Plaintiffs bring claims for breach of contract, intentional infliction
4 of emotional distress, negligence, violations of section 2923.55 of California’s Civil Code, and
5 violations of section 17200 of California’s Business and Professions Code, all arising out of a
6 bungled home loan modification from 2010. (ECF No. 58 at 1, 3.) Defendants MTC Financial,
7 Inc.; U.S. Bank, N.A.; and Caliber Home Loans, Inc. (collectively, “Defendants”) filed motions
8 requesting that the Court dismiss the Second Amended Complaint without leave to amend. (ECF
9 No. 60 at 2; ECF No. 61 at 2.) Defendant JPMorgan Chase Bank, N.A. answered the Second
10 Amended Complaint on July 20, 2018. (ECF No. 66.)

11 On July 31, 2018, following the issuance of an Order to Show Cause (ECF No. 65) that
12 went unacknowledged, the Court sanctioned Plaintiffs \$250 for failing to file an opposition or a
13 statement of non-opposition to Defendants’ motions to dismiss (ECF No. 68). Plaintiffs
14 thereafter filed a Declaration of Non-Opposition, stating that “Plaintiffs do not oppose the
15 Motions to Dismiss the Second Amended Complaint filed by Defendants.” (ECF No. 69 at 2.)

16 **II. STANDARD OF LAW**

17 A district court may properly dismiss a complaint on the basis that the plaintiff expresses
18 no opposition to dismissal. *See Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995) (dismissing
19 complaint pursuant to local rule where plaintiff failed to file opposition to motion to dismiss);
20 *Sidorov ex rel. Natalya v. Transamerica Life Ins. Co.*, No. 2:17-CV-00002-KJM-DB, 2017 WL
21 2911676, at *2 (E.D. Cal. July 7, 2017) (“Although a court may not grant a motion for summary
22 judgment simply because there is no opposition, the Ninth Circuit has repeatedly affirmed district
23 courts that have dismissed a complaint on that basis.” (citing *Henry v. Gill Indus., Inc.*, 983 F.2d
24 943, 950 (9th Cir. 1993); *Ghazali*, 46 F.3d at 54; *United States v. Warren*, 601 F.2d 471, 473 (9th
25 Cir. 1979))). The Local Rules of the United States District Court for the Eastern District of
26 California contemplate that unopposed motions may be summarily granted. *See* L.R. 230(c) (“A
27 responding party who has no opposition to the granting of the motion shall serve and file a
28 statement to that effect, specifically designating the motion in question.”).

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III. ANALYSIS

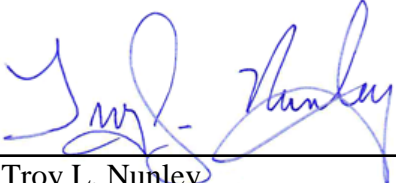
Plaintiffs expressly consent to dismissal of their Second Amended Complaint as to Defendants without leave to amend. (ECF No. 69.) Based on this express consent and on the Court’s authority to summarily grant unopposed motions to dismiss, *see Ghazali*, 46 F.3d at 54, Plaintiffs’ motions to dismiss (ECF No. 60; ECF No. 61) are hereby GRANTED without leave to amend.

IV. DISPOSITION

Defendants MTC Financial Inc.; U.S. Bank, N.A.; and Caliber Home Loans, Inc. are dismissed from this action. Defendant JPMorgan Chase Bank, N.A., however, has answered the Second Amended Complaint (*see* ECF No. 66) and therefore remains an active named defendant in this matter.

IT IS SO ORDERED.

Dated: March 28, 2019



Troy L. Nunley
United States District Judge