

United States District Court
For the Northern District of California

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

ILDA ELIAS, et al.,

No. C 09-0314 MEJ

Plaintiff(s),

**ORDER FOR CLERK OF COURT TO
REASSIGN CASE**

vs.

REPORT & RECOMMENDATION

QUALITY LOAN SERVICE CORP., et al.,

Defendant(s).

On December 24, 2008, Plaintiffs Ilda Elias and Juan Elias commenced Case No. 244217 in the Sonoma County Superior Court. (Dkt. #1, Ex. A.) Defendants EMC Mortgage Corporation and Wells Fargo Bank subsequently removed the case to this Court on January 23, 2009. (Dkt. #1.)

On January 30, 2009, Defendants filed a Motion to Dismiss, with a noticed hearing date of March 5, 2009. (Dkt. #6.) Pursuant to Civil Local Rule 7, Plaintiffs' opposition or statement of non-opposition was due by February 12, 2009. However, Plaintiffs failed to file any opposition. Further, on February 2, 2009, the Court ordered the parties to either consent or decline magistrate jurisdiction by February 19, 2009. (Dkt. #8.) Plaintiff also failed to comply with this deadline.

Based on Plaintiffs' inaction, the Court vacated the March 5, 2009 hearing date and ordered them to show cause why this case should not be dismissed for failure to prosecute and comply with court deadlines. (Dkt. #14.) The Court ordered Plaintiffs to file a declaration by March 5, 2009, and scheduled an order to show cause hearing on March 12, 2009. (Dkt. #14.)

On March 12, 2009, the Court conducted an order to show cause hearing. Plaintiffs failed to

1 appear at the hearing and failed to file any declaration. Based on this procedural history, the Court
2 finds it appropriate to dismiss this case pursuant to Federal Rule of Civil Procedure 41(b).
3 Accordingly, because Plaintiff has yet to consent to the undersigned's jurisdiction, the Court hereby
4 ORDERS the Clerk of Court to reassign this case to a district court judge. The undersigned
5 RECOMMENDS that the newly-assigned judge dismiss this case for failure to prosecute and failure
6 to comply with the Court's deadlines and orders.

7 Pursuant to Federal Rule of Civil Procedure 72, any party may serve and file objections to
8 this Report and Recommendation within 10 days after being served.

9 **IT IS SO ORDERED AND RECOMMENDED.**

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11 Dated: March 12, 2009



12 MARIA-ELENA JAMES
13 United States Magistrate Judge
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