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

DAPC, LLC,

No. C 12-03836 WHA

Plaintiff and Counter-Defendant,

v.

**ORDER GRANTING OCWEN
LOAN SERVICE, LLC'S
MOTION TO DISMISS**

PAUL JACKSON, SANDRA BURT, and
KENNETH BURT,

Defendants, Counterclaimants, and
Third-Party Plaintiffs,

v.

BANK OF AMERICA, OCWEN MORTGAGE
CORPORATION, QUALITY LOAN SERVICE,
and BANK OF AMERICA f/k/a PRLAP, INC.,

Third-Party Defendants.

DAPC, LLC filed an unlawful detainer action against Paul Jackson, and Does 1-10, in Contra Costa County Superior Court. On July 23, 2012, *pro se* defendants Sandra and Kenneth Burt removed the action to federal court. The Burts then filed a counterclaim and third-party complaint against DAPC, LLC, Bank of America, Bank of America f/k/a PRLAP, Inc., Ocwen Mortgage Corporation, and Quality Loan Service.

On September 14, third-party defendant Ocwen Loan Servicing, LLC (erroneously sued as Ocwen Mortgage Corporation) filed a Rule 12(b)(6) motion to dismiss the third-party complaint as against Ocwen. No opposition or statement of non-opposition thereto was received from third-party plaintiffs Sandra and Kenneth Burt. By order dated October 3, the Burts were ordered to show cause why the action should not be dismissed for failure to prosecute (Dkt. No.


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11). The response was due by October 12. None was received. A second order to show cause issued, the response to which was due by noon on October 26 (Dkt. No. 13). That date has come and gone, and no response has been received. Both orders to show cause warned that if no response was received, the motion to dismiss may be granted.

Due to third-party plaintiffs' complete failure to respond to Ocwen's motion, despite two orders to show cause requiring them to do so, Ocwen's motion to dismiss is **GRANTED**. The claims in the countercomplaint/third-party complaint are dismissed only as against Ocwen. The case management conference, currently set for November 8 at 11 a.m., shall remain in place.

IT IS SO ORDERED.

Dated: October 31, 2012.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE