

UNITED STATES DISTRICT COURT
For the Northern District of California

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UNITED STATES DISTRICT C
For the Northern District of California

ANTHONY MALFATTI and
CASA D'ORO MINISTRIES,
v.
Plaintiff

No. C 13-287 LB

**ORDER REQUIRING PROOF OF
SERVICE AND CONTINUING
HEARING**

SPECIALIZED LOAN SERVICING LLC.;
HSBC BANK USA, as Trustee for the Holders
of the Deutsche Alt-A Securities, Inc.
Mortgage Loan Pass Through Certificates
2007-OA4; and MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,

Defendants.

On August 8, 2013, Plaintiffs Anthony Malfatti and Casa D’Oro Ministries filed their first amended complaint in this action. ECF No. 15. In the amended complaint, Plaintiffs name two new defendants, Mortgage Electronic Registration Systems, Inc. (“MERS”), and HSBC Bank USA, as Trustee for the Holders of the Deutsche Alt-A Securities, Inc. Mortgage Loan Pass Through Certificates 2007-OA4 (“HSBC”). *See id.* Plaintiffs have until December 6, 2013 to serve the newly added defendants. *See* Fed. R. Civ. P. 4(m) (requiring service within 120 days of filing a complaint); *see also McGuckin v. United States*, 918 F.2d 811, 813 (9th Cir. 1990) (construing the 120-day limit as running from the filing of the second amended complaint that named the United States as a new defendant). The court **ORDERS** Plaintiffs to comply with the requirements of Federal Rule of Civil Procedure 4(m) and file proof of service by December 9, 2013. If Plaintiffs

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ORDER

1 fail to comply with this order, the court will dismiss the action without prejudice as to the recently
2 named defendants.

3 Rule 73(a) of the Federal Rules of Civil Procedure requires consent from all parties before a
4 magistrate judge may exercise jurisdiction pursuant to 28 U.S.C. § 636(c). *See In re Litigation*
5 *Relating to the Riot of September 22, 1991 at the Maximum Security Unit of the Montana State*
6 *Prison*, 85 F.3d 637 (9th Cir. 1994); *Caprera v. Jacobs*, 790 F.2d 442, 443-44 (5th Cir. 1986).

7 MERS and HSBC have not yet appeared or consented to the undersigned's jurisdiction.

8 Therefore, the court **CONTINUES** the scheduled October 17, 2013 hearing on Defendant
9 Specialized Loan Servicing's motion to dismiss until December 19, 2013.

10 **IT IS SO ORDERED.**

11 Dated: September 27, 2013


12 LAUREL BEELER
United States Magistrate Judge

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