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UNITED STATES DISTRICT COURT
For the Northern District of California

UNITED STATES DISTRICT COURT
Northern District of California

MICHAEL A. FAZIO and KIM M. FAZIO,

Plaintiffs,

v.

RECONTRUST COMPANY, N.A., et al.,

Defendants.

No. C 13-554 MEJ

**ORDER RE: DEFENDANTS' MOTION
TO STRIKE (Docket No. 29)**

Before the Court is Defendants' Motion to Strike, filed on June 21, 2013. Dkt. No. 29. The Court finds this motion suitable for disposition without oral argument and VACATES the August 1, 2013 hearing. Civ. L.R. 7-1(b). Having considered the parties' papers, the Court finds it appropriate to deny Defendants' Motion. Although Plaintiffs filed their amended complaint five days after the deadline, it is preferable to consider this case on the merits, and Defendants have shown no prejudice based on this delay. Further, Plaintiffs did seek declaratory relief in their initial Complaint, even if it was not listed as a separate cause of action. Finally, Defendants fail to address Plaintiffs' punitive damages and attorneys' fees claims in their Reply. Accordingly, Defendants' Motion is DENIED. The Court shall address Defendants' Motion to Dismiss (DKt. No. 28) separately.

IT IS SO ORDERED.

Dated: July 23, 2013



Maria-Elena James
United States Magistrate Judge