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

EMMANUEL and JOYCE RODRIGUEZ,

Plaintiffs,

No. C 14-03259 WHA

v.

NATIONSTAR MORTGAGE LLC
and THE WOLF FIRM LAW
CORPORATION,

Defendants.

**ORDER DISMISSING ACTION
FOR FAILURE TO PROSECUTE
AND VACATING HEARING**

This foreclosure action was filed by *pro se* plaintiffs Emmanuel and Joyce Rodriguez in July 2014. The complaint alleges, *inter alia*, violations of California Business & Professions Code Section 17200, California Civil Code Section 3412, 15 U.S.C. 1641(g) and 1692(e), and wrongful foreclosure.

On August 22, 2014, defendant Nationstar Mortgage LLC filed a motion to dismiss for failure to state a claim under FRCP 12(b)(6) contending, *inter alia*, that plaintiffs' claims were barred under the doctrine of judicial estoppel because plaintiffs had previously failed to disclose the claims in a 2013 bankruptcy proceeding.

Plaintiffs failed to timely oppose Nationstar's motion to dismiss. Plaintiffs did not file an opposition to defendant's motion by the September 5 deadline as required by Civil Local Rule 7-3(a). An order was issued on September 9 apprising plaintiffs of their failure to file an opposition. The order also extended plaintiffs' opposition deadline to September 19, and stated that a failure to respond to Nationstar's motion may result in a dismissal of this action.

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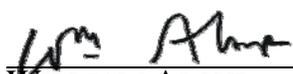
Plaintiffs then failed to respond by the September 19 deadline. A subsequent order on September 23 extended plaintiffs' opposition deadline a second time to September 30, and again warned that failure to respond to defendant's motion may result in dismissal.

Nonetheless, plaintiffs failed to file an opposition by the September 30 deadline. Later on September 30, plaintiffs were ordered to show cause by October 8 as to why this action should not be dismissed for failure to prosecute and why plaintiffs did not oppose or respond to Nationstar's motion to dismiss. October 8 came and went without any response from plaintiffs.

In sum, plaintiffs were afforded three opportunities to oppose the motion to dismiss, but they failed to do so and to date, still have not submitted any opposition to that motion. In light of the repeated warning from the above-mentioned orders, this action is **DISMISSED FOR FAILURE TO PROSECUTE**. See FRCP 41(b). The hearing on October 30 is **VACATED**. Judgment will be entered by separate order.

IT IS SO ORDERED.

Dated: October 10, 2014.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE