

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELENA ASTURIAS, et al.,
Plaintiffs,
v.
NATIONSTAR MORTGAGE LLC, et al.,
Defendants.

Case No. [15-cv-03861-RS](#)

ORDER STRIKING PLAINTIFFS' EX PARTE MOTION FOR RELIEF FROM THE JUDGMENT AND GRANTING THE MOTION FOR EXTENSION OF TIME TO FILE A NOTICE OF APPEAL

On April 22, 2016, plaintiffs’ Second Amended Complaint was dismissed with prejudice and judgment was entered in favor of defendants. Since then, plaintiffs have retained new counsel who has endeavored without success to obtain the prior counsel’s files and information related to the case. The deadline for plaintiffs to file a notice of appeal is May 23, 2016. Plaintiffs move “ex parte” for relief from the judgment and for an extension of time to file a notice of appeal.

Local Rule 7-2(a) requires parties to notice for hearing all motions unless otherwise permitted by court order, and thus ex parte motions are not permitted. Plaintiffs did not properly notice this motion, and therefore their papers are stricken.

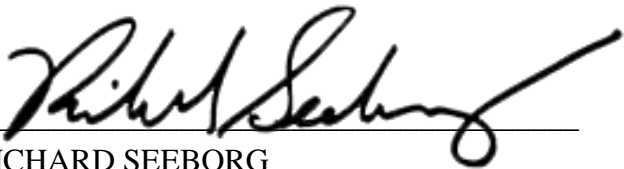
However, plaintiffs will have an opportunity to follow proper procedure. Federal Rule of Appellate Procedure 4(a)(5)(A) permits district courts to extend the time to file a notice of appeal if the party seeking the extension “moves no later than 30 days after the time prescribed” and “that party shows excusable neglect or good cause.” Plaintiffs’ new counsel has submitted a declaration detailing the difficulties she has encountered trying to coordinate with plaintiffs’ prior counsel,

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thereby demonstrating good cause for the extension. Accordingly the motion to extend time to file the notice of appeal is extended forty-five days. That time should allow plaintiffs properly to notice their motion for relief from the judgment. They are reminded that federal law—not state law—governs their request, and their argument should accordingly focus on the applicable federal procedural rules.

IT IS SO ORDERED.

Dated: May 23, 2016


RICHARD SEEBORG
United States District Judge