

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVE S. CASTLE, et al.,

Plaintiffs,

v.

RESIDENTIAL CREDIT SOLUTIONS,
INC., et al.,

Defendants.

Case No. [15-cv-06203-JD](#)

**ORDER OF DISMISSAL FOR FAILURE
TO PROSECUTE**

Re: Dkt. No. 28

Plaintiffs Steve and Deborah Castle, proceeding pro se, filed this action against Defendants Residential Credit Solutions, Inc., the law firm of Barrett, Daffin, Frappier, Treder & Weiss, LLP (“BDFTW”), and the Bank of New York Mellon as Trustee, on December 29, 2015. Dkt. No. 1. Magistrate Judge Sallie Kim granted leave for plaintiffs to proceed in forma pauperis and directed the U.S. Marshal to serve process on defendants. Dkt. Nos. 5, 7.

After BDFTW filed a motion to dismiss the complaint on January 26, 2016, Dkt. No. 11, plaintiffs sought and obtained leave to amend the complaint. Dkt. Nos. 21, 23. BDFTW moved again to dismiss the amended complaint under Federal Rule of Civil Procedure 12(b)(6) on March 15, 2016. Dkt. No. 26. Under Civil Local Rule 7-3, plaintiffs should have filed a response to the motion to dismiss by April 1, 2016. On April 29, 2016, the Court ordered plaintiffs to file either an opposition or a statement of non-opposition to defendants’ motion to dismiss by Friday, May 13, 2016. Dkt. No. 28. The Court specifically warned plaintiffs that if they failed to comply with the order, or failed to file the opposition or statement of non-opposition by May 13, 2016, the Court might grant the pending motion to dismiss as unopposed or otherwise dismiss this action for failure to prosecute.

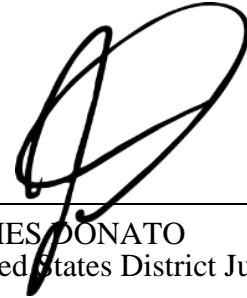
1 requirement that the Court consider less drastic sanctions. *See Ferdik*, 963 F.2d at 1262.
2 Although the fifth factor on the public policy favoring disposition of cases on their merits might
3 weigh against dismissal, on its own, the cumulative weight of the other factors overrides it. *See*
4 *Pagtalunan*, 291 F.3d at 643 (finding district court did not abuse its discretion in dismissing case
5 where three of the five factors weighed in favor of dismissal).

6 **CONCLUSION**

7 Because four of the five relevant factors weigh in favor of dismissal, Court dismisses this
8 case in its entirety without prejudice. The clerk will enter judgment and close the case.

9 **IT IS SO ORDERED.**

10 Dated: May 17, 2016



JAMES DONATO
United States District Judge

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28