

United States District Court
For the Northern District of California

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

PRINCETON DEVELOPMENTS, LLC,

Plaintiff,

v.

BRYNEE K. BAYLOR; BAYLOR &
JACKSON, PLLC; THE MILAN GROUP,
INC.; FRANK LORENZO; GPH
HOLDINGS, LLC; and PATRICK LEWIS,

Defendants.

_____ /

KUMAN BANQUE, LLC,

Plaintiff,

v.

BRYNEE K. BAYLOR; BAYLOR &
JACKSON, PLLC; THE MILAN GROUP,
INC.; and FRANK LORENZO,

Defendants.

_____ /

No. C 11-4471 CW

ORDER GRANTING
MOTIONS TO
SUBSTITUTE (Docket
Nos. 132 in 11-
4471 and 111 in
11-4472) AND
ADDRESSING
DEFENDANT DAWN
JACKSON'S MOTION
TO DISMISS AND
PLAINTIFFS'
OPPOSITION TO THAT
MOTION

No. C 11-4472 CW

In the above captioned actions, Plaintiffs Princeton
Developments, LLC and Kuman Banque, LLC move to substitute Susan
Kevra-Shiner as Executrix of the Estate of Frank L. Pavlico III in
the place of Defendant Frank Lorenzo Pavlico, who has passed away.
Plaintiffs have asserted claims against Mr. Pavlico for fraud and
disgorgement of funds and have sought as relief punitive damages,
among other things. Pursuant to California Code of Civil
Procedure section 377.42, punitive damages are not recoverable
against Mr. Pavlico's successor-in-interest and Plaintiffs
conceded that their demands for punitive damages from Mr. Pavlico

1 did not survive his death. Accordingly, the Court STRIKES
2 Plaintiffs' demands for punitive damages from Mr. Pavlico only,
3 GRANTS Plaintiffs' motions and SUBSTITUTES Susan Kevra-Shiner as
4 Executrix of the Estate of Frank L. Pavlico III in the place of
5 Defendant Frank Lorenzo Pavlico (Docket Nos. 132 in 11-4471 and
6 111 in 11-4472). Plaintiffs shall serve Ms. Kevra-Shiner with a
7 copy of this Order within fourteen days of its issuance and shall
8 file proof of service by that date.

9 Pro se Defendant Dawn Jackson also moves to dismiss the
10 claims asserted against her in both actions for lack of personal
11 jurisdiction and failure to state a claim. Docket Nos. 131 in 11-
12 4471 and 110 in 11-4472. Plaintiffs have filed a joint opposition
13 to Jackson's motion. Docket Nos. 134 in 11-4471 and 113 in 11-
14 4472. With their opposition, Plaintiffs have filed a proof of
15 service upon certain Defendants but not upon Jackson. Docket Nos.
16 134-1 in 11-4471 and 113-1 in 11-4472. In their opposition,
17 Plaintiffs argue that Jackson's motion is improper and should be
18 stricken because she is currently in default, but do not address
19 the merits of the arguments that Jackson presented in her motion.

20 Within one day of the date of this Order, Plaintiffs shall
21 file proof of service of their opposition upon Jackson. By March
22 7, 2013, Jackson shall file a reply, of no more than fifteen
23 pages, addressing whether there is good cause to set aside the
24 default against her pursuant to Federal Rule of Civil Procedure
25 55(c). Jackson's failure to do so will result in denial of her
26 motion to dismiss. By March 14, 2013, Plaintiffs shall file a
27 sur-reply, of no more than fifteen pages, addressing the arguments
28 presented by Jackson in her motion and her reply brief.

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The Court notes that this is not the first time that Plaintiffs have failed to serve properly a pro se Defendant in this case. See, e.g., Docket Nos. 67 in 11-4471 and 50 in 11-4472. Plaintiffs are warned that they must be diligent about doing so and about filing appropriate proof of service.

IT IS SO ORDERED.

Dated: 2/19/2013



CLAUDIA WILKEN
United States District Judge