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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION
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6 YIN KUEN CHEUNG and MARINA
7 CHEUNG YIU,

8 Plaintiffs,

9 vs.

10 WELLS FARGO BANK, N.A.;
11 CAL-WESTERN RECONVEYANCE
12 CORPORATION; and DOES 1 through 100,
13 inclusive,

14 Defendants.

Case No: C 13-1756 SBA

**ORDER DIRECTING PLAINTIFFS
TO FILE RESPONSE TO
DEFENDANT'S MOTION TO
DISMISS**

15 On June 13, 2013, Defendant Wells Fargo Bank, N.A., filed a motion to dismiss,
16 pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 12. Plaintiffs' response was due
17 by June 27, 2013. See Civ. L.R. 7-3(a). To date, however, no opposition or response to
18 Defendant's motion has been filed.


19 The Court's Standing Orders warn that the failure to file a response to a motion may
20 be construed as consent to the relief sought in the unopposed motion. As such, it is well
21 within the discretion of the Court to grant Defendant's motion as unopposed and dismiss
22 the action. See Fed. R. Civ. P. 41(b); Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).
23 Nevertheless, mindful of its obligation to first consider to less drastic alternatives, the Court
24 will afford Plaintiffs one further opportunity to respond to the pending motion.
25 Accordingly,

26 IT IS HEREBY ORDERED THAT Plaintiffs shall have until July 16, 2013 to file
27 their response (i.e., either an opposition or a statement of non-opposition) to Defendant's
28 motion to dismiss. Plaintiffs' response shall comply in all respects with the Federal Rules

1 of Civil Procedure and the Court's Civil Local Rules including, without limitation, Civil
2 Local Rules 7-3 through 7-5. **PLAINTIFFS ARE WARNED THAT THE FAILURE**
3 **TO FILE A RESPONSE BY THIS DEADLINE AND/OR TO COMPLY WITH THIS**
4 **ORDER OR ANY OTHER APPLICABLE PROCEDURAL RULES WILL RESULT**
5 **IN THE GRANTING OF THE PENDING MOTION AND THE DISMISSAL OF**
6 **THIS ACTION WITH PREJUDICE.** In the event Plaintiffs timely file a response,
7 Defendant may file a reply seven days after the deadline for Plaintiffs' response to the
8 motion to dismiss.

9 IT IS SO ORDERED.

10 Dated: July 9, 2013


11 SAUNDRA BROWN ARMSTRONG
12 United States District Judge
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