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4   UNITED STATES DISTRICT COURT

5   NORTHERN DISTRICT OF CALIFORNIA

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7   KRISTINE BARNES,   Case No.   14-cv-02373-KAW
                    Plaintiff,
8   ORDER REGARDING DEFENDANTS'
          v.   ANSWERS; STRIKING BAY ISLAND
9   ENTERPRISES INVESTMENTS, S.A. DE
     RICK MORTELL, et al.,   C.V.'S ANSWER SUA SPONTE; ORDER
10   DENYING MOTION TO DISMISS
                    Defendants.
11   Dkt. Nos. 7, 13 & 14

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13   On May 22, 2014, Plaintiff Kristine Barnes filed this action for fraud and to void her

14   contract in connection with her attempted purchase of two condominiums in Honduras that she

15   claims were never built and was instead a scheme to defraud buyers. (Dkt. No. 1.) Plaintiff

16   named Defendants Rick Mortell (a.k.a. Eric Mortell), Darlene Mortell, Erika Mortell, Bay Islands

17   Enterprises Inc., and Bay Islands Enterprises Investments S.A. DE C.V. (a.k.a. Viva Roatan

18   Resort and Viva Wyndham Resort). *Id.*

19   On June 18, 2014, Eric Mortell (a.k.a. Rick Mortell), appearing pro se, filed an answer and

20   a motion to dismiss on behalf of himself and other unspecified defendants. (Dkt. No. 7.)

21   On June 27, 2014, Defendants Eric Mortell, Darlene Mortell, Erika Mortell, and Bay

22   Islands Enterprises Investments S.A. DE C.V., appearing pro se, collectively filed both an

23   amended answer to the complaint and a motion to dismiss. (Dkt. Nos. 13 & 14.) In addition, Eric

24   Mortell signed the pleadings on behalf of Bay Islands Enterprises Investments, despite not being

25   authorized to practice law in the U.S. District Court for the Northern District of California.

26   The individually named defendants may represent themselves pro se, but Bay Islands

27   Enterprises Investments, as a corporation, must appear through an attorney licensed to practice in

28   the jurisdiction. *See, e.g., D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973 (9th

United States District Court
Northern District of California

Cir. 2004). In addition, since Bay Islands Enterprises Investments must be represented by counsel, it is subject to the electronic case filing requirement in Civil L.R. 5-1, and must retain counsel that is a member of the bar of this Court in good standing. Since Bay Islands Enterprises Investments cannot represent itself, and Eric Mortell is not licensed to practice in the Northern District of California, its answer must be stricken, and the Court does so on its own motion. *See Dr. JKL Ltd. v. HPC IT Educ. Ctr.*, 749 F. Supp. 2d 1038, 1048 (N.D. Cal. 2010).
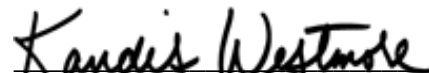
Defendants Eric Mortell, Darlene Mortell, and Erika Mortell are deemed to have answered the complaint. In addition, the motion to dismiss is DENIED, as it does not comport in form with Civil L.R. 7-2 nor contain a memorandum of points and authorities as required by Civil L.R. 7-4.

For the reasons set forth above, Defendants' motion to dismiss is DENIED, and the Bay Islands Enterprises Investments' Answer is stricken. Should Defendants Eric Mortell, Darlene Mortell, and Erika Mortell wish to properly contest this Court's jurisdiction, they may file motions for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. Any such filings must comply with both the Federal Rules of Civil Procedure and this district's Civil Local Rules (available at: *http://cand.uscourts.gov/localrules*).

Bay Islands Enterprises Investments shall also have fourteen (14) days from the date of this order to serve a motion or responsive pleading by an attorney licensed to practice law in the U.S. District Court for the Northern District of California. In addition, Bay Islands Enterprises, Inc. has not yet responded to the complaint, but must also appear by counsel licensed to practice law in this district.[1]

IT IS SO ORDERED.

Dated: July 18, 2014

KANDIS A. WESTMORE
United States Magistrate Judge

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[1] Plaintiff filed a response to Defendants' motion requesting that it be denied ad Bay Islands Enterprises Investment's answer be stricken. Since the Court is denying the motion to dismiss and striking the corporate entity's answer sua sponte, the request is moot.