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United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

EVERETT BURNS, ET AL.,)	Case No.: 11-CV-01621-LHK
)	
Plaintiffs,)	ORDER DENYING AS MOOT
v.)	DEFENDANT'S MOTION FOR MORE
)	DEFINITE STATEMENT AND
WASHINGTON MUTUAL, ET AL.,)	VACATING SEPTEMBER 15, 2011
)	MOTION HEARING AND CASE
Defendants.)	MANAGEMENT CONFERENCE
)	
)	
)	

        Plaintiffs Everett Burns and Kim Hicks-Burns originally filed suit in this matter *pro se*.

Defendant EMC Mortgage Corp. ("Defendant") has filed a motion for more definite statement with

respect to Plaintiff's original *pro se* Complaint. That motion is currently set for hearing on

Thursday, September 15, 2011. On August 22, 2011, however, Plaintiffs filed a notice of

substitution of counsel, informing the Court that Attorney Wendell J. Jones is now their counsel of

record. On August 22, 2011, Mr. Jones filed an Amended Complaint on behalf of Plaintiffs.

        In light of Plaintiffs' retention of counsel and filing of an Amended Complaint, Defendant

now represents to the Court that its pending motion is moot, and that it intends to file a motion to

dismiss in response to the Amended Complaint. *See* August 31, 2011 Joint Case Management

Statement at 3 (where Defendant states its position that "[t]his motion is now moot given the fact

that Plaintiffs filed a FAC on August 22, 2011.").

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Case No.: 11-CV-01621-LHK
ORDER DENYING AS MOOT MOTION FOR MORE DEFINITE STATEMENT

Accordingly, the Court DENIES AS MOOT Defendant's motion for a more definite statement, and vacates the September 15, 2011 motion hearing. The September 15, 2011 case management conference is continued to Wednesday, November 16, 2011 at 2:00 p.m. If, as anticipated, Defendant files a motion to dismiss the Amended Complaint, the Court will continue the case management conference to the date of the hearing.

IT IS SO ORDERED.

Dated: August 31, 2011

Lucy H. Koh

LUCY H. KOH
United States District Judge

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