

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

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| |) | Case No.: 11-CV-3726-LHK |
| OLIVIA JIMENEZ RAMIREZ; LUCIA R. JIMENEZ, |) | ORDER TO SHOW CAUSE WHY THIS CASE SHOULD NOT BE DISMISSED FOR FAILURE TO PROSECUTE |
| Plaintiffs, |) | |
| v. |) | |
| SAXON MORTGAGE SERVICES, INC., MERS; FV-1, INC., IN TRSUT FOR MORGAN STANLEY MORTGAGE CAPITAL HOLDINGS, LLC; DOES 1-100, inclusive, |) | |
| Defendants. |) | |

On June 9, 2011, Plaintiffs, in pro per, filed an action in California Superior Court alleging claims for “unlawful trustee sale;” violation of Cal. Civ. Proc. § 2923.5; breach of implied covenant of good faith and fair dealing; and “defendant has not standing right to title.” ECF No. 1, Ex. A, at 6. On July 29, 2011, the case was removed by Defendants based on diversity jurisdiction.

On August 5, 2011, Defendants filed a motion to dismiss. ECF No. 4. After the case was reassigned to the undersigned on August 25, 2011, ECF No. 6, Defendants filed and served on Plaintiffs, by mail, an amended motion to dismiss on August 26, 2011. ECF No. 7. Per the Civil Local Rules, Plaintiffs’ opposition was due September 9, 2011. On August 29, 2011, Defendants gave notice, by mail, to Plaintiffs that Plaintiffs’ opposition was due on September 9, 2011, and that the motion was set for hearing on November 17, 2011. ECF No. 9. Plaintiffs failed to file an opposition on September 9, 2011, or any time thereafter. On September 14, 2011, Defendants gave notice, again by mail, that Defendants’ motion was unopposed. ECF No. 11.


In light of Plaintiffs’ failure to oppose Defendants’ motion, the Court orders Plaintiffs to show cause why this case should not be dismissed for failure to prosecute. This Order does not authorize Plaintiffs to file an untimely opposition to Defendants’ motion to dismiss. Plaintiffs have

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until December 1, 2011, to file a response to this Order to Show Cause. A hearing on this Order to Show Cause is set for December 8, 2011, at 2:00 p.m, with a case management conference to follow. Failure to respond to this Order and appear at the December 8, 2011, hearing will result in dismissal without prejudice for failure to prosecute. The case management conference and hearing set for November 17, 2011, are hereby VACATED.

IT IS SO ORDERED.

Dated: November 9, 2011



LUCY H. KOH
United States District Judge

