

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

IMANT KOTSINSH and DAVID-WYNN)
MILLER,)

Plaintiffs,)

v.)

FIRST AMERICAN TITLE, a California)
Corporation; GREENPOINT FUNDING)
INCORPORATED, a New York Corporation;)
FINANCIAL TITLE COMPANY, a California)
Corporation; MARIN CONVEYANCING)
CORPORATION, "as Trustee"; AURORA)
LOAN SERVICES, LLC; AURORA BANK;)
FEDERAL SAVINGS BANK, A COLORADO)
CORPORATION; MORTGAGE ELECTRONIC)
REGISTRATION SYSTEMS, INC. "MERS"-)
A/K/A MERS CORPORATION,)
INCORPORATION, a Delaware Corporation;)
AKERMAN SENTERFITT, LLP, a California)
Limited Liability Partnership Company; IMRAN)
HAYAT, ESQ., an Individual; TAYLOR L.)
BROADHEAD, ESQ., an Individual; JUSTIN D.)
BASLER, ESQ., an Individual; TFLG)
CORPORATION, a California Corporation;)
ERIC FERNANDEZ, ESQ., an Individual;)
SEAN BEDROSIAN, ESQ., an Individual;)
LAURIE HOWELL, ESQ., an Individual; CAL-)
WESTERN RECONVEYANCE)
CORPORATION, "as Trustee",)

Defendants.)

Case No.: 12-CV-04636-LHK

ORDER DISMISSING GREENPOINT
MORTGAGE FUNDING, INC.,
AURORA BANK FSB, AURORA LOAN
SERVICES, LLC, AND MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC.; ORDER TO SHOW
CAUSE RE: AKERMAN SENTERFITT,
LLP, TAYLOR L. BROADHEAD, AND
JUSTIN D. BALSER; ORDER SETTING
CASE MANAGEMENT CONFERENCE

1 Plaintiffs filed their Complaint on September 5, 2012. ECF No. 1. Plaintiffs' Complaint
2 appears to consist of miscellaneous words and numbers.

3 **Order of Dismissal**

4 On October 5, 2012, Defendant Greenpoint Mortgage Funding, Inc. ("Defendant
5 Greenpoint") filed a motion to dismiss Plaintiffs' Complaint. *See* ECF No. 7. Pursuant to Civil
6 Local Rule 7-3(a), Plaintiffs' opposition to Defendant Greenpoint's motion to dismiss was due on
7 October 19, 2012. Plaintiffs did not (and have not) filed an opposition or statement of non-
8 opposition to Defendant Greenpoint's motion to dismiss. Accordingly, on November 26, 2012, the
9 Court ordered Plaintiffs to show cause why this case should not be dismissed with prejudice as to
10 Defendant Greenpoint for failure to prosecute. ECF No. 12 ("Greenpoint OSC"). The Court
11 initially set Plaintiffs' deadline to respond to the OSC on December 10, 2012. *Id.* However, the
12 Court later extended this deadline to December 27, 2012. ECF No. 16. The Court set the hearing
13 on the Greenpoint OSC for January 2, 2013 at 2:00 P.M. ECF No. 12. The Court notified
14 Plaintiffs that if Plaintiffs failed to respond to the Greenpoint OSC and failed to appear at the
15 January 2, 2013 hearing, the Court would dismiss Plaintiffs' case with prejudice as to Defendant
16 Greenpoint for failure to prosecute. *Id.*

17 On November 19, 2012, Defendants Aurora Bank FSB, Aurora Loan Services, LLC,
18 Mortgage Electronic Registration Systems, Inc., Akerman Senterfitt, LLP, Taylor L. Broadhead,
19 and Justin D. Balsler (collectively, "Aurora Defendants") also filed a motion to dismiss. ECF No.
20 11. Plaintiffs' opposition to the Aurora Defendants' motion to dismiss was due on December 3,
21 2012. *See* Local Rule 7-3(a). Plaintiffs did not (and have not) filed an opposition or statement of
22 non-opposition the Aurora Defendants' motion to dismiss. Accordingly, on December 13, 2012,
23 the Court ordered Plaintiffs to show cause why this case should not be dismissed as to Defendants
24 Aurora Bank FSB, Aurora Loan Services, LLC, and Mortgage Electronic Registration Systems,
25 Inc. ECF No. 14 ("Aurora OSC"). The Court inadvertently omitted Defendants Akerman
26 Senterfitt, LLP, Taylor L. Broadhead, and Justin D. Balsler from the Aurora OSC. The Court
27 ordered Plaintiffs to respond to the OSC by December 27, 2012. *Id.* The hearing on the Aurora
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1 OSC was also set for January 2, 2013 at 2:00 P.M. *Id.* The Court notified Plaintiffs that if
2 Plaintiffs failed to respond to the Aurora OSC and failed to appear at the January 2, 2013 hearing,
3 the Court would dismiss Plaintiffs' case with prejudice as to Defendants Aurora Bank FSB, Aurora
4 Loan Services, LLC, and Mortgage Electronic Registration Systems, Inc. for failure to prosecute.
5 *Id.*

6 Plaintiffs failed to respond to either the Greenpoint OSC or the Aurora OSC. Plaintiffs also
7 failed to appear at the January 2, 2013 hearing on both OSC's. Accordingly, Plaintiffs' case is
8 DISMISSED WITH PREJUDICE as to Defendants Greenpoint Mortgage Funding, Inc., Aurora
9 Bank FSB, Aurora Loan Services, LLC, and Mortgage Electronic Registration Systems, Inc.
10 Defendant Greenpoint Mortgage Funding, Inc.'s motion to dismiss (ECF No. 7) is DENIED AS
11 MOOT. The February 28, 2013 hearing on the Aurora Defendants' motion to dismiss (ECF No.
12 11) is hereby VACATED.

13 **Order to Show Cause**

14 Furthermore, in light of Plaintiffs' failure to respond to the Aurora Defendants' motion to
15 dismiss, and failure to appear at the Aurora OSC hearing, the Court hereby orders Plaintiffs to
16 show cause why this case should not also be dismissed as to Defendants Akerman Senterfitt, LLP,
17 Taylor L. Broadhead, and Justin D. Balsler (the Aurora Defendants who were inadvertently omitted
18 from the Aurora OSC). Plaintiffs have until January 16, 2013 to file a response to this Order to
19 Show Cause. A hearing on this Order to Show Cause is set for **January 30, 2013 at 2:00 P.M.**
20 Plaintiffs' failure to respond to this Order and to appear at the January 30, 2013 hearing will result
21 in dismissal of Defendants Akerman Senterfitt, LLP, Taylor L. Broadhead, and Justin D. Balsler
22 with prejudice for failure to prosecute.

23 **Order Setting Case Management Conference**

24 The initial case management conference scheduled for February 28, 2013 is hereby
25 ADVANCED to January 30, 2013 at 2:00 p.m. Plaintiffs are also advised that if Plaintiffs fail to
26 submit a joint case management conference statement in advance of the January 30, 2013 case
27 management conference and fail to appear at the January 30, 2013 case management conference,
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the Court will issue an order to show cause as to why this case should not be dismissed with prejudice as to the remaining Defendants for failure to prosecute.

IT IS SO ORDERED.

Dated: January 3, 2013



LUCY H. KOH
United States District Judge