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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**

6 MARIA CASTELLANOS,
7 Plaintiff,

8 v.

9 COUNTRYWIDE BANK NA, et al.,
10 Defendants.
11

Case No. [15-cv-00896-BLF](#)

**ORDER TO SHOW CAUSE; NOTICE
OF IMMINENT DISMISSAL**

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13 On June 30, 2015, the Court granted Bank of New York Mellon, Mortgage Electronic
14 Registration Systems, Inc., National Default Servicing Corporation, and Select Portfolio
15 Servicing, Inc.’s (collectively, “Defendants”) motion to dismiss Plaintiff’s complaint with leave to
16 amend. *See* ECF No. 32. The Court’s order granted Plaintiff up to and including July 24, 2015 to
17 file a first amended complaint. *Id.* Plaintiff failed to file an amended complaint. On July 29,
18 2015, Defendants filed a notice of lodgment of proposed dismissal. *See* ECF No. 33. As of
19 August 19, 2015, Plaintiff has not responded to Defendants’ filing. The failure to amend a
20 complaint is considered a failure to comply with a Court order and is grounds for dismissal of this
21 action with prejudice under Federal Rule of Civil Procedure 41(b). *See Yourish v. Calif.*
22 *Amplifier*, 191 F.3d 983, 986 (9th Cir. 1999).

23 Further, Plaintiff filed her complaint on February 27, 2015, *see* ECF No. 1, and there is no
24 evidence in the Court records that Plaintiff has served Countrywide Bank NA (n/k/a Bank of
25 America), Reconstruct Company, or Countrywide Home Loans, Inc. (n/k/a BAC Home Loans
26 Servicing, LP) with the summons and complaint. An unreasonable delay in service is considered a
27 failure to prosecute and is also grounds for dismissal of this action with prejudice under Federal
28 Rule of Civil Procedure 41(b). *See Bowling v. Hasbro, Inc.*, 403 F.3d 1373, 1375-77 (Fed. Cir.

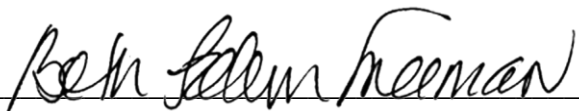
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2005) (applying the law of the Ninth Circuit).

Accordingly, the Court ORDERS Plaintiff to show cause **on or before August 31, 2015** why this action should not be dismissed with prejudice for failure to comply with a court order and for failure to prosecute. If Plaintiff does not respond, the Court will dismiss the action with prejudice pursuant to Federal Rule of Civil Procedure 41(b) without further notice.

IT IS SO ORDERED.

Dated: August 19, 2015


BETH LABSON FREEMAN
United States District Judge