

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

JOSE R CARNERO, ET AL.,

Plaintiffs,

v.

LAND HOME FINANCIAL SERVICES,

Defendant.

Case No. 16-cv-03606-BLF

**ORDER DISMISSING COMPLAINT
AGAINST DEFENDANT LAND HOME
FINANCIAL SERVICES WITHOUT
PREJUDICE FOR FAILURE TO
PROSECUTE**

On July 9, 2018, the Court ordered Plaintiffs Jose Carnero and Marta Carnero to submit a request for entry of default against Defendant Land Home Financial Services or to show cause why this case should not be dismissed for failure to prosecute. Order, ECF 74. The Order stated that if Plaintiffs do not submit a written response or file a request for an entry of default by August 8, 2018, the Court will dismiss this action for failure to prosecute. *Id.* As of this date, the Court has not received a written response or a request for entry of default from Plaintiffs.

The Court also noted that a Clerk’s Notice of Payment Due for the appeal was returned as undeliverable to Marta Carnero (but not for Jose Carnero). Order (citing ECF 72). The Court reminded Plaintiffs that a “party whose address changes while an action is pending must promptly file with the Court and serve upon all opposing parties a Notice of Change of Address specifying the new address.” *Id.* (citing Civil L.R. 3-11). The Court advised Plaintiffs that this action may be dismissed if they failed to file and serve a Notice of Change of Address. *Id.*

On August 2, 2018, the Court received a copy of the July 9, 2018 Order that was mailed to Plaintiffs as returned undeliverable. ECF 75. That copy was mailed to the address used by Plaintiffs in their most recent filings. *Compare* ECF 75 *with* ECF 60 (dated April 20, 2017), 62


1 (dated May 8, 2017), 63 (dated May 8, 2017). It appears that Plaintiffs moved to a new address
2 but did not file a Notice of Change of Address. As such, they have not complied with Civil Local
3 Rule 3-11 which provides that a failure to file the changed address with the Court may result in a
4 dismissal.

5 The Court finds that dismissal of this action is warranted because Plaintiffs have failed to
6 prosecute this case. Plaintiffs did not submit a new address in accordance with Civil Local Rule
7 3-11. Moreover, if Plaintiffs somehow received notice of the Court's July 9, 2018 Order, they
8 have failed to respond by August 8, 2018 as set forth in the Order. Accordingly, IT IS HEREBY
9 ORDERED that Plaintiffs' complaint against Defendant Land Home Financial Services is
10 DISMISSED without prejudice for failure to prosecute.

11 The Court will separately enter a judgment as to Defendants Elk Grove Financial, LLC and
12 Special Default Services, Inc. who have been dismissed for lack of federal jurisdiction. ECF 58.

13
14 **IT IS SO ORDERED.**

15
16 Dated: August 10, 2018

17 
18 BETH LABSON FREEMAN
United States District Judge