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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

GREGORY ROBELL; FIRAS
HADDAD,

Plaintiffs,

vs.

COUNTRYWIDE BANK NA; Carlos M.
Garcia, and/or his successor, individually,
and in his official capacity as CFO of
Countrywide Bank NA; Angelo R.
Mozilo, and/or his successor, individually,
and in his official capacity as CEO of
Countrywide Bank NA; BANK OF
AMERICA; RECONTRUST
COMPANY; Jim Taylor, and/or his
successor, individually, and in his official
capacity as CEO of Recontrust Company;
Joselyn Casillas, individually, and in her
official capacity as Agent of Recontrust
Company; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; and
DOES 1 through 10, inclusive,

Defendants.

CASE NO. 10cv1028-WQH-WMc

ORDER

HAYES, Judge:

The matter before the Court is the Motion to Dismiss and Motion for Expungement of Lis Pendens filed by Defendants Countrywide Bank, N.A., Bank of America, Recontrust Company and Mortgage Electronic Registration Systems, Inc. (“moving Defendants”). (ECF No. 15).

BACKGROUND

On May 13, 2010, Plaintiffs, proceeding pro se, initiated this action by filing a Verified Petition. (ECF No. 1). The Verified Petition contains allegations related to a loan transaction.

On August 16, 2010, Plaintiffs filed a First Amended Verified Petition. (ECF No. 13).

1 On August 27, 2010, the moving Defendants filed the Motion to Dismiss the First
2 Amended Verified Petition for failure to state a claim upon which relief may be granted, or,
3 in the alternative, for summary judgment, and Motion for Expungement of Lis Pendens. (ECF
4 No. 15).

5 DISCUSSION

6 A district court may properly grant an unopposed motion pursuant to a local rule where
7 the local rule permits, but does not require, the granting of a motion for failure to respond. *See*
8 *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995). Civil Local Rule 7.1 provides: “If an
9 opposing party fails to file the papers in the manner required by Civil Local Rule 7.1.e.2, that
10 failure may constitute a consent to the granting of a motion or other request for ruling by the
11 court.” S.D. Cal. Civ. Local Rule 7.1(f)(3)(a). “Although there is ... a [public] policy favoring
12 disposition on the merits, it is the responsibility of the moving party to move towards that
13 disposition at a reasonable pace, and to refrain from dilatory and evasive tactics.” *In re Eisen*,
14 31 F.3d 1447, 1454 (9th Cir. 1994) (affirming grant of motion to dismiss for failure to
15 prosecute); *see also Steel v. City of San Diego*, No. 09cv1743, 2009 WL 3715257, at *1 (S.D.
16 Cal., Nov. 5, 2009) (dismissing action pursuant to Local Rule 7.1 for plaintiff’s failure to
17 respond to a motion to dismiss).

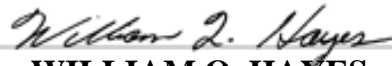
18 The Motion to Dismiss and Motion for Expungement of Lis Pendens contains a proof
19 of service indicating that Plaintiffs were served with the Motion. (ECF No. 15-3). The Motion
20 and the Court’s docket reflect that the hearing for the Motion to Dismiss and Motion for
21 Expungement of Lis Pendens was noticed for October 4, 2010. Civil Local Rule 7.1 provides:
22 “each party opposing a motion ... must file that opposition ... with the clerk ... not later than
23 fourteen (14) calendar days prior to the noticed hearing.” S.D. Cal. Civ. Local Rule 7.1(e)(2).
24 As of the date of this Order, Plaintiffs have failed to file an opposition. The Court concludes
25 that “the public’s interest in expeditious resolution of litigation,” “the court’s need to manage
26 its docket,” and “the risk of prejudice to the defendants” weigh in favor of granting the Motion
27 to Dismiss and Motion for Expungement of Lis Pendens for failure to file an opposition.
28 *Ghazali*, 46 F.3d at 53.

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CONCLUSION

IT IS HEREBY ORDERED that the Motion to Dismiss and Motion for Expungement of Lis Pendens is GRANTED. (ECF No. 15). The First Amended Verified Petition is DISMISSED without prejudice as to Defendants Countrywide Bank, N.A., Bank of America, Recontrust Company and Mortgage Electronic Registration Systems, Inc. The lis pendens is expunged.

DATED: October 8, 2010


WILLIAM Q. HAYES
United States District Judge