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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOSE DIAZ and TERESA DIAZ,)	Civil No. 11cv2530 L (BLM)
Plaintiffs,)	ORDER GRANTING FDIC'S
v.)	MOTION TO DISMISS [doc. #2]
JP MORGAN CHASE BANK)	
NATIONAL, <i>et al.</i> ,)	
Defendants.)	

On November 7, 2011, defendant Federal Deposit Insurance Corporation, as Receiver of Washington Mutual Bank, filed a motion to dismiss claims for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). *See* Civ. L.R. 7.1.e.2. The motion was set for hearing on January 9, 2012. Under the Civil Local Rules, plaintiffs' opposition to defendant's motion was due on or before December 23, 2011. *See* Civ. L.R. 7.1.e.2. But plaintiffs have not opposed the motion nor have they sought additional time in which to respond to the motion to dismiss.

Civil Local Rule 7.1.f.3.c provides that "[i]f an opposing party fails to file papers in the manner required by Local Rule 7.1.e.2, that failure may constitute a consent to the granting of that motion or other ruling by the court." When an opposing party receives notice under Federal Rule of Civil Procedure 5(b) and is given sufficient time to respond to a motion to dismiss, the Court may grant the motion based on failure to comply with a local rule. *See generally Ghazali*

1 v. *Moran*, 46 F.3d 52, 52 (9th Cir. 1995) (per curiam) (affirming dismissal for failure to file
2 timely opposition papers where plaintiff had notice of the motion and ample time to respond).

3 Here, plaintiffs were properly served with defendant's motion, which was filed on
4 November 7, 2011, and therefore they had six weeks to oppose the motion. Because the motion
5 to dismiss is unopposed, and relying on Civil Local Rule 7.1(f.3.c), the Court deems plaintiffs'
6 failure to oppose defendant's motion as consent to granting it.

7 Based on the foregoing, **IT IS ORDERED** defendant FDIC's motion to dismiss claims
8 asserted against it for lack of subject matter jurisdiction is **GRANTED**.

9 **IT IS SO ORDERED.**

10 DATED: January 3, 2012

11 
12 M. James Lorenz
United States District Court Judge

13 COPY TO:

14 HON. BARBARA L. MAJOR
15 UNITED STATES MAGISTRATE JUDGE

16 ALL PARTIES/COUNSEL
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