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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GUY P. MATHYS; HEIDI S. MATHYS,)	Civil No. 13cv928 L (KSC)
Plaintiffs,)	ORDER GRANTING MOTION TO DISMISS [doc. #6] and CLOSING CASE
v.)	
J.P. MORGAN CHASE BANK, N.A., <i>et al.</i> ,)	
Defendants.)	

Defendants JP Morgan Chase Bank, N.A.; U.S. Bank National Association as successor trustee to Bank of America, N.A. for Bear Stearns Asset-Backed Securities I, LLC, Series 2007-HE5; EMC Mortgage LLC f/k/a EMC Mortgage Corporation (erroneously sued as Bear Stearns Residential Mortgage Corporation fdba EMC Residential Mortgage Corporation); and Mortgage Electronic Registration Systems, Inc.; Bank of America, N.A., as successor by merger to LaSalle Bank National Association, as trustee for Bear Stearns Asset-Backed Securities I, LLC, Series 2007-HE5 move to dismiss this action. The motion was set for hearing on June 10, 2013.

Under the Civil Local Rules, plaintiffs’ opposition to defendants’ motion was due on or before June 3, 2013. *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

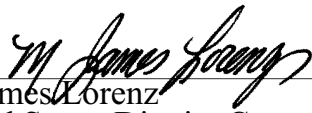
1 that motion or other ruling by the court." When an opposing party receives notice under Federal
2 Rule of Civil Procedure 5(b) and is given sufficient time to respond to a motion to dismiss, the
3 Court may grant the motion based on failure to comply with a local rule. *See generally Ghazali*
4 *v. Moran*, 46 F.3d 52, 52 (9th Cir. 1995) (per curiam) (affirming dismissal for failure to file
5 timely opposition papers where plaintiff had notice of the motion and ample time to respond).

6 Here, plaintiffs were properly served with defendants' motion, which was filed on April
7 25, 2013, and therefore they had almost six weeks to oppose the motion. Because the motion to
8 dismiss is unopposed, and relying on Civil Local Rule 7.1(f.3.c), the Court deems plaintiffs'
9 failure to oppose as consent to granting defendants' motion.

10 Based on the foregoing, **IT IS ORDERED** defendants' motion to dismiss is **GRANTED**.
11 The Clerk of the Court is directed to close this case.

12 **IT IS SO ORDERED.**

13 DATED: June 13, 2013

14 
15 M. James Lorenz
United States District Court Judge

16 COPY TO:

17 HON. KAREN S. CRAWFORD
18 UNITED STATES MAGISTRATE JUDGE

19 ALL PARTIES/COUNSEL
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