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

MARIA ANTONIA DIAZ,

Plaintiff,

v.

NATIONSTAR MORTGAGE LLC; and
CLEAR RECON CORP.,

Defendants.

Case No.: 17cv1607-MMA (BGS)

**ORDER GRANTING DEFENDANT
NATIONSTAR MORTGAGE LLC'S
UNOPPOSED MOTION TO DISMISS**

[Doc. No. 19]

Plaintiff Maria Diaz (“Plaintiff”) filed a Complaint against Defendants Nationstar Mortgage LLC (“Nationstar”) and Clear Recon Corp. in the Superior Court for the County of San Diego alleging five causes of action for: (1) violations of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692f(6); (2) violations of §§ 1692 *et seq.* of the FDCPA; (3) violations of California Civil Code § 2934(a)(1)(A); (4) cancellation of instruments; and (5) violations of California’s Unfair Competition Law (“UCL”). *See* Doc. No. 1-2 (hereinafter “Complaint”). On August 9, 2017, Defendants removed the action to this Court. *See* Doc. No. 1. Nationstar moved to dismiss Plaintiff’s Complaint, which the Court granted. *See* Doc. Nos. 4, 16. The Court

1 dismissed Plaintiff’s second cause of action with prejudice, but granted Plaintiff leave to
2 amend the remaining claims. *See* Doc. No. 16.

3 Plaintiff filed a First Amended Complaint (“FAC”) on March 16, 2018, asserting
4 four causes of action for: (1) violations of §1692f(6) of the FDCPA; (2) violations of
5 California Civil Code § 2934(a)(1)(A); (3) cancellation of instruments; and (4) violations
6 of the UCL. *See* Doc. No. 17. Nationstar filed a motion to dismiss Plaintiff’s FAC on
7 March 30, 2018. *See* Doc. No. 19. The Court set the motion for hearing on April 30,
8 2018, meaning that Plaintiff was required to file a response in opposition to the motion on
9 or before April 16, 2018. *See* Civ. L.R. 7.1.e.2 (stating that “each party opposing a
10 motion . . . must file that opposition or statement of non-opposition . . . not later than
11 fourteen (14) *calendar* days prior to the noticed hearing”). To date, Plaintiff has not filed
12 an opposition Nationstar’s motion to dismiss.

13 The Ninth Circuit has held that a district court may grant an unopposed motion to
14 dismiss where a local rule permits, but does not require, it to do so. *See generally,*
15 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Here, Civil Local Rule 7.1.f.3.c
16 provides, “[i]f an opposing party fails to file the papers in the manner required by Civil
17 Local Rule 7.1.e.2, that failure may constitute a consent to the granting of a motion or
18 other request for ruling by the court.” As such, the Court has the option of granting
19 Nationstar’s motion to dismiss on the basis of Plaintiff’s failure to oppose, and it chooses
20 to do so.¹

21 Generally, public policy favors disposition of cases on their merits. *See Hernandez*
22 *v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998). However, a case cannot move
23 forward toward resolution on the merits when the plaintiff fails to defend his or her
24 complaint against a Rule 12 motion. Thus, this policy lends little support to a party
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27 ¹ Plaintiff’s failure to comply with the provisions of Civil Local Rule 7.1.e.2 also constitutes a
28 failure to comply with the provisions of this Court’s Local Rules, which serves as an additional basis for
dismissal under Civil Local Rule 41.1.b.

1 whose responsibility it is to move a case toward disposition on the merits but whose
2 conduct impedes or completely prevents progress in that direction. *See In re Eisen*, 31
3 F.3d 1447, 1454 (9th Cir. 1994). In addition, the Court finds dismissal of Plaintiff's
4 claims as to Nationstar pursuant to Civil Local Rule 7.1.f.3.c serves to facilitate the
5 management of its docket.

6 Accordingly, the Court **GRANTS** Nationstar's unopposed motion and
7 **DISMISSES** Plaintiff's claims against Nationstar without prejudice.² The Clerk of Court
8 is instructed to terminate this action as to Nationstar.

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10 **IT IS SO ORDERED.**

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12 Dated: May 1, 2018

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14 HON. MICHAEL M. ANELLO
15 United States District Judge
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28 ² As such, the Court **DENIES AS MOOT** Nationstar's Request for Judicial Notice. *See* Doc.
No. 19-1.