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KEARNEY, HOLLEY & THOMPSON



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11 *Attorneys for Plaintiff*

12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 MORRIS C. AARON, Liquidating Trustee of the
First Magnus Liquidating Trust, real party in
15 interest for FIRST MANGUS FINANCIAL
CORPORATION,

16
17 Plaintiff,

18 v.

19 CARA MARIA GUEDELIS and JOHN DOE
GUEDELIS, a married couple; RUDOLF STRAAT
20 and JANE DOE STRAAT, a married couple;
PAUL HILL, SR. and JANE DOE HILL, a
21 married couple; PAUL HILL, II and JANE DOE
HILL, a married couple; MICHAEL MULLINS
22 and JANE DOE MULLINS, a married couple;
DWAYNE R. SMITH and JANE DOE SMITH, a
23 married couple; TIMOTHY ENGEN and JANE
DOE ENGEN, a married couple; OPTIONS ARE
24 US, INC., a Nevada corporation; PANTHER
INVESTMENTS, a Nevada entity; FAT CAT
25 REAL ESTATE, LLC, a Nevada limited liability
company; NUTEX CONSTRUCTION, INC., a
26 Nevada Corporation; ACCURATE
ACCOUNTING AND INNOVATIVE TAX
27 SERVICE, a dissolved Michigan corporation;
KELSEY, LLC, a Nevada limited liability
28 company; SW CAPITAL CORPORATION, a
Nevada or Texas entity; ACE APPRAISALS

CASE NO. 2:07-CV-00132-JCM-PAL

**ORDER DENYING MOTION TO
DISMISS WITHOUT PREJUDICE**

Hearing Date: November 1, 2011
Hearing Time: 10:30 a.m.



1 CORPORATION, a Nevada corporation;
2 STODDARD & ASSOCIATES, a Nevada
3 corporation; COMMONWEALTH LAND TITLE
4 COMPANY, a Nevada corporation; LAWYERS
5 TITLE OF NEVADA, INC., a Nevada
6 corporation,

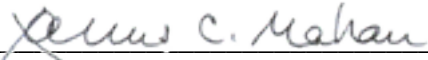
Defendants.

7 THIS MATTER COMES BEFORE THE COURT pursuant to the June 15, 2011 Mandate
8 of the United States Court of Appeals, Ninth Circuit [Dkt. 270], reversing the Court's Order
9 Granting Motion to Dismiss [Dkt. 248] and remanding for further proceedings on the Motion to
10 Dismiss Action with Prejudice and on the Merits Pursuant to Rule 41(b) of the Fed. R. Civ. P.
11 and LR 41-1 (the "Motion to Dismiss") [Dkt. 221] filed by Defendants Advance Title, First
12 American Title Insurance Company, Carol Bragdon, and Tara Monjure, which was joined by
13 Defendants Cara Maria Gudelis, Panther Investments, Rudolph Straat and Options Are Us, Inc.
14 [Dkt. 223], Joseph Appraisal Group Nevada and Maria Miller [Dkt. 226], Camelback Title
15 Agency, Priscilla Cruz, and John F. Cruz [Dft. 229], Brian Haneline, Malissa Lang, and Ace
16 Appraisals Corporation [Dkt. 233], Commonwealth Land Title and Lawyers Title of Nevada
17 [Dkt. 241], and Definitive Appraisals, Inc., and Jennifer Sagers [Dkt. 246].

18 In accordance with the Court's October 4, 2011 Order, Plaintiff Morris C. Aaron,
19 Liquidating Trustee of the First Magnus Liquidating Trust, and real party in interest for First
20 Magnus Financial Corporation [Dkt. 297], Defendants Commonwealth Land Title Insurance
21 Company and Lawyers Title of Nevada [Dkt. 294], and Defendants Ace Appraisals, Corp., Brian
22 Haneline, and Malissa Lang [Dkt. 296] each filed supplemental briefs regarding their respective
23 views on the application of the facts of this case to the analysis of the factors identified in the
24 Ninth Circuit's decision in *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). On
25 November 1, 2011, the Court heard oral argument on the Motion to Dismiss [Dkt. No. 221].
26 Based on all of the foregoing, and the entire record before the Court, for the reasons stated on the
27 record during the November 1, 2011 hearing, and good cause appearing,

28 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Motion to Dismiss
[Dkt. 221], and all joinders thereto, are denied without prejudice; and

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all defendants in this
2 action shall have twenty (20) days from the date of this Order to file an answer or other pleading
3 responsive to Plaintiff's Second Amended Complaint [Dkt. 295].

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6 UNITED STATES DISTRICT JUDGE
7 DATED: November 10, 2011

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