

1 Kristin A. Schuler-Hintz, Esq., Nevada SBN 7171  
 Christopher M. Hunter, Esq., Nevada SBN 8127  
 2 McCarthy & Holthus, LLP  
 9510 W. Sahara, Suite 110  
 3 Las Vegas, NV 89117  
 Phone (702) 685-0329  
 4 Fax (866) 339-5691  
[KHintz@mccarthyholthus.com](mailto:KHintz@mccarthyholthus.com)  
 5 Attorney for Defendants:  
 Aurora Loan Services and MERS

6 **IN THE UNITED STATES DISTRICT COURT**  
 7 **DISTRICT OF NEVADA**  
 8

9 AARON P. BROOKS AND ALISA R. )  
 BROOKS, )  
 10 )  
 Plaintiff, )  
 11 )  
 v. )  
 12 )  
 LEHMAN BROTHERS HOLDINGS, INC.; )  
 13 AXIOM FINANCIAL INCORPORATED; )  
 AURORA LOAN SERVICES; )  
 14 CITIMORTGAGE, INC.; MORTGAGE )  
 ELECTRONIC REGISTRATION SYSTEMS, )  
 15 INC.; and JOHN DOES I and II, and JOHN )  
 DOES 3 through 10, inclusive, )  
 16 )  
 17 Defendants.

Case No.: 2:11-cv-00531-GMN-RJJ

**ORDER GRANTING MOTION TO  
 DISMISS FILED BY AURORA  
 LOAN SERVICES AND  
 MORTGAGE ELECTRONIC  
 REGISTRATION SYSTEMS, INC.**

18  
 19 Defendants, Aurora Loan Services (“Aurora”) and Mortgage Electronic  
 20 Registration Systems, Inc. (“MERS” and collectively “Defendants”), by and through its counsel  
 21 of record, Christopher M. Hunter, Esq., of McCarthy & Holthus, LLP, filed a Motion to Dismiss  
 22 (“Motion”) pursuant to Fed. R. Civ. P. 12(b)(6) on May 13, 2011 (Docket No. 13). The  
 23 Docket Report indicates that a Response to the Motion was due by May 31, 2011. No Response  
 24 has been filed.

25 The Court having considered the moving papers, its own files, and good cause appearing,  
 26 rules as follows:


- 27 1. Pursuant to Local Rule 7-2(b), any Response and/or Opposition to Defendants’  
 28 Motion for Summary Judgment was required to be filed with the Court and served within

1 fourteen days after service of the motion. No Response and/or Opposition has been filed by the  
2 Plaintiff regarding this matter. Pursuant to Local Rule 7-2(d), the failure of an opposing party to  
3 file Points and Authorities in response to any Motion shall constitute consent to the granting of  
4 the motion.

5 2. The Court may grant the Motion to Dismiss for failure to follow local rules. *Ghazali*  
6 *v. Moran*, 46 F.3d 52 (9<sup>th</sup> Cir. 1995). Before dismissing the action, the district court is required  
7 to weigh several factors: (1) the public's interest in expeditious resolution of litigation; (2) the  
8 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
9 favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions.  
10 The Court has considered these factors and finds that Plaintiff has received notice and has been  
11 given ample time to respond.

12 IT IS THEREFORE ORDERED, that based on the foregoing, the Motion to Dismiss is  
13 GRANTED and Defendants, Mortgage Electronic Registration Systems, Inc. and Aurora Loan  
14 Services are hereby dismissed without prejudice.

15 IT IS SO ORDERED this 1st day of June, 2011.

16  
17  
18 

19 \_\_\_\_\_  
Gloria M. Navarro  
United States District Court

20 Respectfully submitted,  
McCarthy & Holthus

21 By: /s/Christopher M. Hunter  
Christopher M. Hunter  
22  
23  
24  
25  
26  
27  
28