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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

AARON WILLIAMSON,

Plaintiff(s),

v.

WELLS FARGO HOME MORTGAGE,

Defendant(s).

Case No. 2:16-CV-2251 JCM (NJK)

ORDER

Presently before the court is defendant Wells Fargo Bank, N.A.’s motion to dismiss plaintiff Aaron Williamson’s complaint pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6). (ECF No. 6). Plaintiff has not filed a response to the motion to dismiss, and the deadline for submission has passed. (ECF No. 11).

The local rules have the force of law. See *United States v. Hvas*, 355 U.S. 570, 574–575 (1958). Under Local Rule 7-2(d), “[t]he failure of an opposing party to file points and authorities in response to any motion . . . constitutes a consent to the granting of the motion.” The Ninth Circuit instructs that a district court must weigh several factors before granting a motion filed pursuant to Federal Rule of Civil Procedure 12 because a party failed to comply with a local rule: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases o[n] their merits; and (5) the availability of less drastic sanctions.” *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986) (discussing a Nevada local rule construing a failure to oppose a motion as effectively consenting to the granting of that motion); see also *Martinez v. Stanford*, 323 F.3d 1178, 1183 (9th Cir. 2003) (indicating that *Ghazali* provides the applicable rule for evaluating a Rule 12 motion to dismiss in light of a local rule authorizing dismissal).

1 This court finds that granting defendant's motion to dismiss would protect the public's
2 interest in the expeditious resolution of litigation. See Ghazali, 46 F.3d at 53. Indeed, defendant
3 indicates that plaintiff has been unresponsive in another aspect of this case. (ECF No. 10 at 1)
4 ("Wells Fargo has attempted to contact Plaintiff in writing to prepare a Joint Status Report, but has
5 received no response.").

6 This court also finds that granting defendant's motion to dismiss would permit the court to
7 effectively manage its docket. See Ghazali, 46 F.3d at 53. Additionally, defendant would be
8 prejudiced if the court did not rule on the present motion because it would be forced to wait for
9 plaintiff—who initiated this case—to resolve the present action. See id.

10 This court acknowledges the public policy favoring the disposition of cases on their merits.
11 See id. However, dismissal is an appropriate sanction in this circumstance because about a month
12 has elapsed since the expiration of plaintiff's response deadline, and plaintiff has yet to file an
13 opposition to defendant's motion to dismiss. Indeed, "pro se litigants are bound by the rules of
14 procedure." Id. at 54.


15 Weighing the Henderson factors, this court finds that defendant's motion to dismiss will
16 be granted pursuant to Local Rule 7-2(d). See id. at 53.

17 Accordingly,

18 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Wells Fargo
19 Bank, N.A.'s motion to dismiss plaintiff's complaint (ECF No. 6) be, and the same hereby is,
20 GRANTED.

21 IT IS FURTHER ORDERED that plaintiff Aaron Williamson's complaint (ECF No. 1-1)
22 be, and the same hereby is, DISMISSED without prejudice.

23 DATED November 29, 2016.

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UNITED STATES DISTRICT JUDGE