

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DACE, *et al.*,

Plaintiffs,

vs.

Case No.: 2:23-cv-01806-GMN-DJA

TD BANK/TARGET,

Defendant.

ORDER

Pending before the Court is the Second Motion to Dismiss (ECF No. 15), filed by TD Bank/Target (“Defendant”). Magistrate Judge Albregts filed a Report and Recommendation (“R&R”) (ECF No. 13) which recommended GRANTING Defendant’s First Motion to Dismiss, (ECF No. 6), and dismissing Plaintiffs’ Complaint, (ECF No. 1), without prejudice and with leave to amend. Plaintiffs failed to object to the R&R by the objection deadline of April 24, 2024. On April 26, 2024, this Court adopted the R&R and gave Plaintiffs 21 days to file an amended complaint. (*See* April 26, 2024, Order, ECF No. 14). Plaintiffs did not file an amended complaint by the deadline. On August 21, 2024, Defendant filed the pending Motion requesting the case be dismissed with prejudice for Plaintiffs’ failure to file an amended complaint. Plaintiffs did not file a response to the pending Motion and Defendant filed a Notice of Non-Opposition, (ECF No. 17), drawing the Court’s attention to Plaintiff’s failure to respond.

On October 24, 2024, the Court deferred ruling on the Second Motion to Dismiss and gave Plaintiffs until November 11, 2024, to file a response because the Court was uncertain whether Plaintiffs had received the filings in this matter.¹ A copy of the October 24, 2024,

¹ It appears that the filings in this matter were being sent to Plaintiffs at the address listed on the docket: 6255 West Arby Avenue #184, Las Vegas, NV 89118. However, Plaintiff listed a different address in their Answer to

1 Order, (ECF No. 18), along with ECF Nos. 13–16 were both mailed and emailed to Plaintiffs at
2 the mailing address and email addresses listed in their Answer to Defendant’s First Motion to
3 Dismiss, (ECF No. 11). As of the date of this Order, Plaintiffs have failed to respond or file an
4 amended complaint.

5 “On its own, Plaintiff’s failure to file points and authorities in opposition to a motion
6 constitutes consent that the motion be granted.” *Gonzalez v. Bank of America, N.A.*, No. 2:13-
7 cv-00460, 2013 WL 3877708, at *2 (D. Nev. July 24, 2013) (citing Local Rule 7-2(d)).

8 Moreover, the Court cautioned Plaintiffs that failure to file an amended complaint would result
9 in their case being dismissed with prejudice. (April 26, 2024, Order 2:6–9). As explained
10 above, no response or amended complaint was filed, and the deadline to do so has passed.

11 **IT IS HEREBY ORDERED** that Defendant’s Second Motion to Dismiss, (ECF No.
12 15), is **GRANTED** and this case is **DISMISSED** with prejudice.

13 The Clerk of Court is kindly requested to close this case and mail a copy of this Order to
14 Plaintiffs at:

15 Philip and Luba Dace
16 7320 S. Rainbow Blvd. Ste 102 #184
17 Las Vegas, Nevada 89139

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25 Defendant’s First Motion to Dismiss (ECF No. 11): 7320 S. Rainbow Blvd. Ste 102 #184, Las Vegas, NV
89139. Plaintiffs also listed email addresses in their Answer: Philip.dace@gmail.com and
dacefamilytrust@gmail.com.

