

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

July 10, 2014 at 1:30 p.m.

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1. [10-38007](#)-E-7 GLENDA/JOSHUA GOLDEN CONTINUED ORDER TO APPEAR FOR
[11-2741](#) EXAMINATION (JOSHUA GOLDEN)
CHUNG ET AL V. GOLDEN ET AL 4-18-14 [[98](#)]
ADV. CASE CLOSED 11/22/13

No Tentative Ruling:

This is a post-judgment order to appear filed by the judgment Creditors Arnold and Janice Chung, for the examination of the judgment debtor, Joshua Golden. The court having signed the order to appear for examination, Joshua Golden shall appear and furnish information to aid in the enforcement of the money judgment against him.

2. [10-43410](#)-E-13 MARIANN BINGHAM CONTINUED MOTION FOR ENTRY OF
[14-2020](#) DBJ-1 DEFAULT JUDGMENT
BINGHAM V. OCWEN LOAN 3-4-14 [[10](#)]
SERVICING, LLC

DISMISSED 7-3-14

Final Ruling: No appearance at the July 10, 2014 hearing is required.

On July 3, 2014, Plaintiff filed a Notice of Dismissal of Plaintiff's Adversary Proceeding pursuant to Federal Rule of Civil Procedure 41, Dckt. 28. No answer or motion for summary judgment having been filed by the Defendants, the adversary proceeding was dismissed. The Adversary Proceeding having previously been dismissed, the Motion is dismissed as moot.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Entry of Default Judgment having been presented to the court, the Adversary Proceeding having been previously dismissed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is dismissed without

July 10, 2014 at 1:30 p.m.

prejudice as moot, the Adversary Proceeding having been dismissed.

3.	<u>13-34223-E-13</u> NAOMI LEBUS <u>14-2049</u> KAS-1 LEBUS V. S.B.S. TRUST NETWORK ET AL	MOTION TO DISMISS ADVERSARY PROCEEDING 5-30-14 [19]
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Final Ruling: No appearance at the July 10, 2014 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Plaintiff Debtor, Plaintiff's Counsel, Chapter 13 Trustee and the United States Trustee on May 30, 2014. By the court's calculation, 41 days' notice was provided. 28 days' notice is required.

The moving party is reminded that the Local Rules require the use of a new Docket Control Number with each motion. Local Bankr. R. 9014-1(c). Here the moving party reused a Docket Control Number. This is not correct. The Court will consider the motion, but counsel is reminded that not complying with the Local Rules is cause, in and of itself, to deny the motion. Local Bankr. R. 1001-1(g), 9014-1(l).

The Motion to Dismiss Adversary Proceeding has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion to Dismiss Adversary Proceeding is granted and the Complaint filed on February 6, 2014 is dismissed without prejudice.

Defendants, First Bank dba First Bank Mortgage and Terry McCarthy ("Defendants") move for an order dismissing all claims alleged against them in the Complaint filed by Naomi Marie LeBus, in pro per ("Plaintiff"). Complaint, Dckt. 1.

The Complaint was filed by the Plaintiff-Debtor in *pro se*. Defendants filed a motion to dismiss the Complaint on March 6, 2014. Dckt. 7. That motion was denied without prejudice. Order, Dckt. 18; Civil Minutes (Parties agreed to dismiss motion without prejudice), Dckt. 16.

At the Status Conference on April 16, 2014, William Abbott appeared as counsel for the Plaintiff-Debtor in this Adversary Proceeding. He advised the court that a substitution of attorney was filed on April 15, 2014 (Dckt. 12). It was represented to the court that Mr. Abbott would be filing an amended complaint for the Plaintiff-Debtor. Based on that representation and the agreement of the Parties, the court granted Defendants an extension of time to and including May 30, 2014, to file a responsive pleading to the Complaint. This was to allow Plaintiff-Debtor sufficient time to prepare and file the amended complaint and avoid Defendants incurring otherwise unnecessary cost and expense in responding to a Complaint that Plaintiff-Debtor's counsel acknowledged had to be amended.

No amended complaint was filed by May 30, 2014, and Defendants were required to respond to the Complaint. That response is the present Motion to Dismiss the Complaint. Dckt. 19. On June 20, 2014, Counsel for Plaintiff-Debtor filed a "First Amended Complaint & Jury Trial Demand for (1) Determination of Validity of Lien on Property of Estate; (2) Injunctive Relief to Restrain Wrongful Foreclosure; (3) Quiet Title; and (4) Declaratory Relief." Dckt. 29. While an Amended Complaint has been filed and a Summons Reissued on June 23, 2014, no certificate of service has been filed by the Plaintiff-Debtor.

Because of the failure to file the Amended Complaint within the time period set at the Status Conference, Defendants were required to file the present motion. No certificate of service having been filed, the court considers the Motion to Dismiss the Complaint, which is the only complaint for which there is evidence of service having been made and being at issue between the parties.

REVIEW OF MOTION

The Motion to Dismiss the Complaint states with particularity (Fed. R. Civ. P. 7(b); Fed. R. Bankr. P. 7007) the following grounds for the relief requested.

- a. Plaintiff's Complaint fails to state any cognizable causes of action.
- b. Complaint is virtually unintelligible, impossible to decipher, and consists of a scramble of legal theories, buzzwords, and conclusions without any factual support.
- c. Complaint fails to comply with Federal Rule of Civil Procedure 8 which requires a short plain statement of the claims.
- d. The Cause of Action for Quiet Title fails as a matter of law because Plaintiff has failed to plead all the requisite elements to establish a cause of action for quiet title.
- e. Complaint fails to plead any facts or allegations against Terry McCarthy, other than specifying him as Chief Executive Officer of First Bank Mortgage.
- f. It is requested that the Complaint should be dismissed with

prejudice.

Motion, Dckt. 19.

Defendants provide a Points and Authorities (Dckt. 21) providing the modern authorities for evaluating a complaint and whether it meets the Federal Rule of Civil Procedure 8 standards as enunciated by the Supreme Court in *Ashcroft v. Iqbal*, ___ U.S. ___, 129 S. Ct. 1937 (2009), and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

A review of the Complaint shows that this Motion and the grounds asserted by Defendants is well taken. Even taking into account that the Plaintiff-Debtor filed the Complaint in pro se and giving it a generous reading, it is not sufficient to withstand the present Motion.

Initially, the Pro Se Plaintiff-Debtor appears to have fallen into the trap of piecing together various other pleadings and documents to form "her complaint." This include making references to "the American Law of the Land," "its Common-Law Jurisdiction," references to the "American Found Fathers," and legal maxims. The Complaint is sprinkled with citations and points and authorities. This is a common mis-perception of the legal process by non-lawyers who believe that form matters over substance in pleading.

The Complaint I broad sweeping terms challenges the process by which residential loans were made, sold, and then "securitized." Section II of the Complaint is titled "SOLE CAUSE OF ACTION," which states, "Plaintiff's Sloe Cause of Action: Complete lack and want of Standing to bring foreclosure due to nullity of the original loan, ab initio."

In the general allegations that Complaint alleges that Plaintiff purchased real property. It is contended that Defendant asserts Plaintiff executed a "Note" and a "Trust Deed." Plaintiff does not deny, but further asserts, based on information and belief, that the Note was sold, but the Deed of Trust was not concurrently assigned with the Note when transferred. It is alleged that this then rendered the Deed of Trust "'Null" and 'Void" (ab initio)."

The legal points and authorities in the Complaint stated by Plaintiff-Debtor include *Carpenter v. Longan*, 83 U.S. 271 (1872) for the proposition that a note and mortgage are inseparable, with an assignment of the note carrying with it the mortgage. The Plaintiff-Debtor also cites a number of California cases for the same proposition - (1) a lien is but the incident of a debt and cannot be transferred apart from the debt, (2) may not be assigned separate from the debt, (3) the deed of trust is inseparable from the debt and "always abides with the debt," and (4) the assignment of the debt carries with the security. These authorities cited by Plaintiff-Debtor are consistent with the authorities cited by the court in previously, unrelated rulings.

The Complaint then goes on to state that when the Note at issue was transferred, it was bifurcated from the deed and rendered null and void. However, this is contrary to the very legal authorities cited by Plaintiff in the Complaint.

The Complaint goes on to allege that since the Note was sold by the original lender, it was fully "satisfied" and thereon the Deed of Trust must be reconveyed. There is no allegation in the complaint that the "purchaser" of the Note made payment for the Plaintiff-Debtor to pay the Plaintiff-Debtor's obligation on the Note. To the contrary, it is alleged in the Complaint that the "purchaser" purchased the Note. It is well established under the Commercial Code as adopted in the various states, Notes are negotiable, assignable, and transferable - with the transferee or holder entitled to enforce the note. See Cal. Comm. Code §§ 3201-3203.

As drafted, the Complaint fails to plead factual allegations sufficient to raise more than a speculative right to relief. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 555 (2007). Federal Rule of Civil Procedure 8, made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7008, requires that complaints contain a short, plain statement of the claim showing entitlement to relief and a demand for the relief requested. Fed. R. Civ. P. 8(a). As the Court held in *Bell Atlantic*, the pleading standard under Rule 8 does not require "detailed factual allegations," but it does demand more than an unadorned accusation or conclusion of a cause of action. *Bell Atlantic*, 550 U.S. at 555.

To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.

Ashcroft v. Iqbal, 556 U.S. ___, 129 S. Ct. 1937, 1949, 173 L. Ed. 2d 868, 884 (2009) (citations and quotation marks omitted). Rule 8 also requires that allegations be "simple, concise, and direct." Fed. R. Civ. P. 8(d)(1).

In ruling on a 12(b)(6) motion to dismiss, the Court may consider "allegations contained in the pleadings, exhibits attached to the complaint, and matters properly subject to judicial notice." *Swartz v. KPMG LLP*, 476 F.3d 756, 763 (9th Cir. 2007). The court need not accept unreasonable inferences or conclusory deductions of fact cast in the form of factual allegations. *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001). Nor is the court required to "accept legal conclusions cast in the form of factual allegations if those conclusions cannot be reasonably drawn from the facts alleged." *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 (9th Cir. 1994).

The Motion to Dismiss is granted and the Complaint is dismissed without prejudice. At this early pleading stage dismissal of the Complaint with prejudice, so as to constitute an adjudication on the merits, is inappropriate. A document titled Amended Complaint has been filed, which may or may not have been served.

The court's statements of the law and findings with respect to the granting of this Motion are solely made for purposes of this Motion and are not conclusions of law or findings of fact in this Adversary Proceeding. Neither party has been afforded the opportunity to properly address the issue of the effect of a promissory note being assigned without there being

a corresponding contemporaneous assignment of the deed of trust. Plaintiff-Debtor may have not responded to the Motion believing that by filing, but possibly not serving, the Amended Complaint obviated the need to respond to the Motion.

Further, on July 9, 2014, the court granted the Chapter 13 Trustee's Motion to Dismiss the Plaintiff-Debtor's Chapter 13 case. The dismissal of that case raises significant issues concerning a federal court exercising the grant of federal jurisdiction pursuant to 28 U.S.C. §§ 1334 and 157 to determine the issues presented in this Complaint. Jurisdiction pursuant to 28 U.S.C. § 1334 is for bankruptcy cases, matters arising under the Bankruptcy Code, matters arising in the bankruptcy case, and matters related to the bankruptcy case. Once the bankruptcy case has been dismissed it does not appear that the fundamental jurisdictional requirements of 28 U.S.C. § 1334 can be satisfied by the Plaintiff-Debtor.

Therefore, the Motion to Dismiss Adversary Proceeding is granted and the Complaint is dismissed, without prejudice.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Dismiss Adversary Proceeding filed by Defendants having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted and the Complaint filed on February 6, 2014, (Dckt. 1) is dismissed without prejudice.

4. [10-51054-E-13](#) ISRAEL/MARICRUZ CARLOS MOTION FOR ENTRY OF DEFAULT
[14-2079](#) DBJ-1 JUDGMENT
CARLOS ET AL V. BANK OF 5-13-14 [[12](#)]
AMERICA, N.A.

Final Ruling: No appearance at the July 10, 2014 hearing is required.

Local Rule 9014-1(f)(1) Motion - No Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Defendant, Chapter 13 Trustee, and Office of the United States Trustee on May 13, 2014. By the court's calculation, 58 days' notice was provided. 28 days' notice is required.

The Motion for Entry of Default Judgment has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion for Entry of Default Judgment is granted.

Plaintiffs Israel C. Carlos and Maricruz Carlos ("Plaintiffs"), seek entry of a default judgment against Defendant Bank of America, N.A., ("Defendant"), in this adversary proceeding. Entry of a default judgment is authorized by Federal Rule of Civil Procedure 55(b)(2), as made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7055.

This adversary proceeding was commenced on March 13, 2014. Dckt. 1. Summons was issued by the Clerk of the United States Bankruptcy Court on March 13, 2014. The complaint and summons were properly served on Defendant Bank of America, N.A.

Defendant failed to file a timely answer or response or a request for an extension of time. Default was entered against Defendant pursuant to Federal Rule of Bankruptcy Procedure 7055(a) by the Clerk of the United States Bankruptcy Court on April 23, 2014. Dckt. 9.

FACTS

Defendant is the beneficiary under a second deed of trust recorded against Debtors' residence, 13761 West Park Drive, Magalia, California, purporting to secure a promissory note with an approximately balance of

\$49,421.00 ("Defendant's Secured Claim"). On November 24, 2010, Plaintiffs filed a plan that provided for the payment of the Defendant's Secured Claim, which claim was valued at \$0.00 by the court pursuant to 11 U.S.C. § 506(a).

Plaintiff obtained a discharge in their bankruptcy case on March 3, 2014. The Debtor has completed the confirmed Chapter 13 Plan and the payment of Defendant's Secured Claim. Defendant failed to execute a reconveyance after the completion of the Chapter 13 Plan and the Defendant's Secured Claim having been paid. Plaintiff filed this adversary proceeding against Defendant in order to determine the validity, priority or extend of Defendant's lien.

ANALYSIS

Federal Rule of Civil Procedure 55 and Federal Rule of Bankruptcy Procedure 7055 govern default judgments. *In re McGee*, 359 B.R. 764, 770 (B.A.P. 9th Cir. 2006). Obtaining a default judgment is a two-step process which requires: (1) entry of the defendant's default, and (2) entry of a default judgment. *Id.* at 770.

Even when a party has defaulted and all requirements for a default judgment are satisfied, a claimant is not entitled to a default judgment as a matter of right. 10 Moore's Federal Practice - Civil ¶ 55.31 (Daniel R. Coquillette & Gregory P. Joseph eds. 3rd ed.). Entry of a default judgment is within the discretion of the court. *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). Default judgments are not favored, as the judicial process prefers determining cases on their merits whenever reasonably possible. *Id.* at 1472. Factors which the court may consider in exercising its discretion include:

- (1) the possibility of prejudice to the plaintiff,
- (2) the merits of plaintiff's substantive claim,
- (3) the sufficiency of the complaint,
- (4) the sum of money at stake in the action,
- (5) the possibility of a dispute concerning material facts,
- (6) whether the default was due to excusable neglect, and
- (7) the strong policy underlying the Federal Rules of Civil Procedure favoring decisions on the merits.

Id. at 1471-72 (citing 6 Moore's Federal Practice - Civil ¶ 55-05[s], at 55-24 to 55-26 (Daniel R. Coquillette & Gregory P. Joseph eds. 3rd ed.)).; *In re Kubick*, 171 B.R. at 661-662.

In fact, before entering a default judgment the court has an independent duty to determine the sufficiency of Plaintiff's claim. *Id.* at 662. Entry of a default establishes well-pleaded allegations as admitted, but factual allegations that are unsupported by exhibits are not well pled and cannot support a claim. *In re McGee*, 359 B.R. at 774. Thus, a court may refuse to enter default judgment if Plaintiff did not offer evidence in support of the allegations. See *id.* at 775.

DISCUSSION

Applying these factors, the court finds that the Plaintiff will be prejudiced if the second deed of trust is not reconveyed, or the court does

not enter judgment determining the Deed of Trust is void and the property held free of such purported interests thereunder. The continued existence of record of the Deed of Trust will cloud title and restrict Plaintiff's full and unfettered use of her real property and her interests therein. The court recently discussed the effect of a completed Chapter 13 Plan and the effect on a secured claim determined by the court pursuant to 11 U.S.C. § 506(a) in *Martin v. CitiFinancial Services (In re Martin)*, 491 B.R. 122 (Bankr. E.D. Cal. 2013).

The court finds that the Complaint is sufficient and the requests for relief requested therein are meritorious. It has not been shown to the court there is or may be any dispute concerning material facts. Defendant Bank of America, N.A. has not contested any facts in this Adversary Proceeding, nor did it dispute facts presented in the Plaintiff's bankruptcy case regarding the motion to value Defendant's secured claim to have a value of \$0.00 or confirmation of the Chapter 13 Plan. Further, there is no evidence of excusable neglect by the Defendant. Although the Federal Rules of Civil Procedure favor decisions on the merits through the crucible of litigation, Defendant has been given several opportunities to respond and there is no indication that Defendant has a meritorious defense or disputes Plaintiff's right to judgment in this Adversary Proceeding. Failing to fulfill one's contractual and statutory obligations, and then failing to respond to judicial process, is not a basis for denying relief to an aggrieved plaintiff. The court finds it necessary and proper for the entry of a default judgment against the Defendant.

ATTORNEYS FEES

Plaintiffs seek attorney fees pursuant to Civil Code Section 1717(a), which provides for attorney fees where the contract specifically provides attorney's fees, which are incurred to enforce the contract, to the prevailing party. Plaintiffs state Paragraph 15 of the Deed of Trust specifically provide for an award of attorney fees. Plaintiffs asserts that as a result of the failure of Bank of America, N.A. to provide a reconveyance, they have incurred attorney fees totaling \$1,482.00.

The prevailing party must establish that a contractual provision exists for attorneys' fees and that the fees requested are within the scope of that contractual provision. *Genis v. Krasne*, 47 Cal. 2d 241 (1956). California Civil Code § 1717 provides for application of a contractual attorneys' fees provisions to any prevailing party to the contract and that the reasonable attorneys' fees shall be determined by the court.

California Civil Code section 1717(a) provides:

In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the party prevailing on the contract, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to other costs.

Here, Plaintiffs direct the court to Paragraph 15 of the Deed of

Trust. Paragraph 15 of the Deed of Trust provides for Default, including reasonable attorney's fees.

Plaintiff's counsel has also provided a billing statement, showing approximately 5.2 hours working on the complaint, status conference, preparation of entry of default, and hearing. The hourly rate for attorney fees is \$285.00. The court finds the rate and time charged reasonable.

The court therefore grants Plaintiff's request for attorney's fees in relation to the Motion for Entry of Default in the amount of \$1,482.00.

CALIFORNIA CIVIL CODE SECTION 2941

Plaintiffs also seek an award of \$500 pursuant to California Civil Code Section 2941, which requires lenders to reconvey deeds of trust when the debt is satisfied.

California Civil Code Section 2941(d) provides,

The violation of this section shall make the violator liable to the person affected by the violation for all damages which that person may sustain by reason of the violation, and shall require that the violator forfeit to that person the sum of five hundred dollars (\$500).

California Civil Code § 2941(b)(1) imposes an affirmative obligation on the beneficiary (creditor) when the obligation secured by the deed of trust has been satisfied. When no obligation remains, the beneficiary must instruct the trustee under the deed of trust to issue a full reconveyance of the deed of trust. Once the obligation no longer exists, resulting in the lien being extinguished by operation of law, the trustor or mortgagor (debtor) is entitled to a certificate of discharge, the mortgage cancelled or satisfied as of record, and the deed of trust reconveyed.

Here, Defendant Bank of America, N.A. failed to have the deed of trust reconveyed after the obligation secured had been satisfied, as required by California Civil Code § 2941(b)(1). Therefore, the violation of that section allows Plaintiff to seek the penalty of \$500 pursuant to California Civil Code Section 2941(d).

CONCLUSION

The court grants the default judgment in favor of Plaintiffs and against Defendant Bank of America, N.A. and holds that the deed of trust is void. The court further awards attorney fees in the amount of \$1,482.00 and additionally awards \$500 pursuant to California Civil Code Section 2941(d).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Entry of Default Judgment filed by the Plaintiff having been presented to the court, and upon

review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion for Entry of Default Judgment is granted. The court shall enter judgment determining that the second deed of trust, and any interest, lien or encumbrance pursuant thereto, held by Bank of America, N.A. against the real property commonly known as 13761 West Park Drive, Magalia, California, APN 066-130-010, recorded on January 12, 2006, with the County Recorder for Butte County, California, is void, unenforceable, and of no force and effect. Further, the judgment shall adjudicate and determine that Bank of America, N.A. has no interest in the real property pursuant to the Deed of Trust.

IT IS FURTHER ORDERED that the Plaintiffs are granted attorney fees in the amount of \$1,482.00.

IT IS FURTHER ORDERED that the Plaintiffs are awarded \$500 pursuant to California Code Section 2941(d).

Counsel for the Plaintiff shall prepare and lodge with the court a proposed judgment, including attorneys fees and stating any costs allow Plaintiff shall be enforced as part of the judgment, consistent with this Order.