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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Anna Chabrowski and Darius Chabrowski,  
10 Plaintiffs,

No. CV-17-03867-PHX-DWL

**ORDER**

11 v.

12 Bank of New York Mellon Trust Company  
13 NA, Zieve Brodnax & Steele LLP, and  
Bayview Loan Servicing LLC,

14 Defendants.  
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16 The original Complaint in this case named one Defendant: Bank of New York  
17 Mellon Trust Company, NA, as Trustee of Certificate Holders of CWALT Incorporated,  
18 Alternative Loan Trust 2006-20CB (hereinafter “Bank of New York”). On June 7, 2018,  
19 the Court granted Plaintiffs leave to amend the complaint. (Doc. 31). The first amended  
20 complaint (Doc. 32) added two new Defendants: Zieve Brodnax & Steele LLP<sup>1</sup> and  
21 Bayview Loan Servicing LLC.

22 To date, the Court sees no evidence that Plaintiffs have taken any steps to serve the  
23 two newly added Defendants with the first amended complaint (Doc. 32).<sup>2</sup> More than 90

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25 <sup>1</sup> Notably, this newly added Defendant is the law firm representing the original Defendant.  
26 After the first amended complaint was filed, Plaintiffs moved to disqualify counsel from  
continuing to represent Bank of New York. (Doc. 41).

27 <sup>2</sup> The original defendant, Bank of New York, moved to dismiss the first amended  
28 complaint. (Doc. 33). An attorney filed a notice of appearance for Bayview Loan  
Servicing LLC (Doc. 43). Bayview Loan Serving LLC then joined Bank of New York’s  
motion to dismiss (Doc. 44). Because service was not raised, it is waived. Fed. R. Civ. P.  
12(h)(1).

1 days have elapsed since the first amended complaint was filed (*see* Fed. R. Civ. P. 4(m));  
2 therefore,

3 **IT IS ORDERED** that by December 21, 2018, Plaintiffs shall file a response to this  
4 Order showing cause why Defendant Zieve Brodnax & Steele LLP should not be dismissed  
5 for failure to serve within the time limits of Federal Rule of Civil Procedure 4(m).

6 **IT IS FURTHER ORDERED** that Plaintiffs' Motion to File a Second Amended  
7 Complaint (Doc. 47) is denied for failure to comply with Local Rule Civil 15.1(a) ("A party  
8 who moves for leave to amend a pleading must attach a copy of the proposed amended  
9 pleading as an exhibit to the motion, which must indicate in what respect it differs from  
10 the pleading which it amends, by bracketing or striking through the text to be deleted and  
11 underlining the text to be added.").<sup>3</sup>

12 Dated this 7th day of December, 2018.

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Dominic W. Lanza  
United States District Judge

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<sup>3</sup> The motion to dismiss and motion to disqualify remain pending.