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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARIA CECLIA GUTIERREZ,
Plaintiff,

vs.

NDEX WEST, LLC; AMERICAS
SERVICING COMPANY and DOES 1-
50, inclusive,
Defendants.

Case No.: CV08-07297 R AJWx
Hon. Manuel L. Real
Courtroom 8 – Spring Street

JUDGMENT

The motion of Defendant WELLS FARGO BANK, N.A. dba AMERICA’S
SERVICING COMPANY (“Wells Fargo”) to dismiss Plaintiff Maria Ceclia
Gutierrez’s complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) and
12(e) for failure to state a claim upon which relief can be granted was set to be
heard on January 26, 2009.

On January 16, 2009, prior to reassignment of the case to Judge Manuel L.
Real on February 20, 2009, the Honorable Florence-Marie Cooper found the matter
suitable for ruling without oral argument.

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After considering all of the papers submitted by the parties, the arguments therein and no opposition having been received, good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Wells Fargo's motion to dismiss is granted.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's complaint is dismissed with prejudice due to Plaintiff's failure to amend pursuant to The Honorable Florence-Marie Cooper's January 16, 2009 order. Plaintiff is to recover nothing from Wells Fargo Bank, N.A. dba America's Servicing Company.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Notice of Pendency of Action (Lis Pendens) recorded on October 1, 2008 in the Official Records of the Los Angeles County Recorder's Office as Instrument Number 20081764084 is hereby expunged due to the dismissal of this case with prejudice.

DATED: March 27, 2009.



HONORABLE MANUEL L. REAL

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare that I am over the page of 18 and am not a party to
3 this action. I am employed in the City of Irvine, California. My business address is
4 Severson & Werson, 19100 Von Karman Avenue, Suite 700, Irvine, California
92612.

5 On the date below I served the within document(s) described as:
6 **(PROPOSED) JUDGMENT** on the interested parties in this action:

7 by placing the original true copy(ies) thereof enclosed in sealed
8 envelope(s) addressed as follows: address as stated on the attached
mailing list.

9 Mitchell W. Roth, Esq.
10 MW ROTH, PLC
11 13245 Riverside Drive, Suite 320
Sherman Oaks CA 91423

Attorneys for Plaintiff MARIA
CECILIA GUTIERREZ

12 Edward A. Treder, Esq.
13 Barrett, Daffin, Frappier, Treder & Weiss
14 917 S. Village Oaks Dr., Suite 200
Covina, CA 91724

Attorneys for Defendants
NDEx West, LLC

15 **BY MAIL** (C.C.P. § 1013(a)) - I deposited such envelope(s) for processing
16 in the mail room in our offices. I am "readily familiar" with the firm's
17 practice of collection and processing correspondence for mailing. It is
18 deposited with the U.S. Postal Service on that same day with postage thereon
19 fully prepaid at Irvine, California, in the ordinary course of business. I am
aware that on motion of a party served, service is presumed invalid if postal
cancellation date or postage meter date is more than one day after the date of
deposit for mailing in affidavit.

20 **(BY ELECTRONIC SERVICE)** Pursuant to CM/ECF System, registration
21 as a CM/ECF user constitutes consent to electronic service through the
22 Court's transmission facilities. The Court's CM/ECF system sends an e-mail
notification of the filing to the parties and counsel of record listed above who
are registered with the Court's EC/ECF system.

23 **FEDERAL** - I declare that I am employed in the office of a member of the
24 bar of this Court at whose direction the service was made.

25 Executed on March ____, 2009, at Irvine, California.

26 _____
LINDA J. TARWATER