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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BEVERLY J. WILSON,

Plaintiff,

No. 2:08-cv-2572 FCD JFM

vs.

FIRST FRANKLIN FINANCIAL CORP.,

Defendant.

ORDER

_____ /

On November 5, 2009, this court issued findings and recommendations recommending that defendant’s motion to dismiss plaintiff’s pro se complaint be granted without leave to amend. In the meantime, plaintiff retained counsel who filed objections to the findings and recommendations on January 17, 2010. In the objections, counsel cites specific facts not included in the pro se complaint, specifically alleging the mortgage broker forged tax returns to ensure plaintiff’s eligibility for the loan at issue here, and raising legal issues not addressed in the complaint or in the briefing on the pending motion to dismiss. Good cause appearing, the findings and recommendations will be vacated and plaintiff will be granted leave to file an amended complaint. Defendant’s motion to dismiss will be denied without prejudice to its renewal, if appropriate, based on the amended complaint.

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1 This matter was initially referred to the undersigned for pretrial management
2 because plaintiff was proceeding pro se. Plaintiff is now represented by counsel. Pretrial
3 matters, other than discovery motions, should now be noticed before the District Judge assigned
4 to this action.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The November 5, 2009 findings and recommendations are vacated.
- 7 2. Defendant's March 23, 2009 motion to dismiss is denied without prejudice.
- 8 3. Plaintiff is granted thirty days from the date of service of this order to file an
9 amended complaint that complies with the requirements of the Federal Rules of Civil Procedure,
10 and the Local Rules of Practice; the amended complaint must bear the docket number assigned
11 this case and must be labeled "Amended Complaint"; plaintiff must file an original and two
12 copies of the amended complaint; failure to file an amended complaint in accordance with this
13 order will result in a recommendation that this action be dismissed.
- 14 4. This matter is referred back to the District Judge assigned to this action.
- 15 5. All dates pending before the undersigned are vacated.
- 16 6. Henceforth the caption on documents filed in this action shall be No. 2:08-cv-
17 2572 FCD JFM.

18 DATED: January 26, 2010.

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21 UNITED STATES MAGISTRATE JUDGE

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