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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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CONNIE J. WILSON,  
Plaintiff,

NO. CIV. 2:09-863 WBS GGH

v.

ORDER RE: MOTION TO DISMISS

JPMORGAN CHASE BANK, NA., as  
successor by merger to  
Washington Mutual Bank, a/k/a  
JPMorgan Chase Bank, N.A., as  
an acquirer of certain assets  
and liabilities of Washington  
Mutual Bank from the FDIC  
acting as receiver and LENDER  
DOE,

Defendants.

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Plaintiff Connie J. Wilson brought this action against  
defendant JPMorgan Chase Bank, NA alleging various federal and  
state claims arising out of plaintiff's mortgage transaction.  
Presently before the court is defendant's motion to dismiss the  
First Amended Complaint ("FAC") pursuant to Federal Rule of Civil

1 Procedure 12(b)(6).

2 On a motion to dismiss, the court must accept the  
3 allegations in the complaint as true and draw all reasonable  
4 inferences in favor of the plaintiff. Scheuer v. Rhodes, 416  
5 U.S. 232, 236 (1974), overruled on other grounds by Davis v.  
6 Scherer, 468 U.S. 183 (1984); Cruz v. Beto, 405 U.S. 319, 322  
7 (1972). To survive a motion to dismiss, a plaintiff needs to  
8 plead "only enough facts to state a claim to relief that is  
9 plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S.  
10 544, 570 (2007). This "plausibility standard," however, "asks  
11 for more than a sheer possibility that a defendant has acted  
12 unlawfully," and where a complaint pleads facts that are "merely  
13 consistent with" a defendant's liability, it "stops short of the  
14 line between possibility and plausibility." Ashcroft v. Iqbal,  
15 129 S. Ct. 1937, 1949 (2009) (quoting Twombly, 550 U.S. at 556-  
16 57).

17 Plaintiff's attorney, Kimberlee A. Rode, has produced a  
18 FAC so rife with inconsistencies that it cannot be considered  
19 plausible under Iqbal. 129 S. Ct. at 1949. For instance, the  
20 FAC begins by alleging that plaintiff was required to execute the  
21 Deed of Trust to perfect the security interest, but was never a  
22 party to the promissory note and never received any proceeds from  
23 the loan. (FAC ¶ 14.) The FAC then incredibly goes on to allege  
24 that plaintiff sent a Qualified Written Request ("QWR") under the  
25 Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. §§  
26 2601-2617, to Long Beach Mortgage Company and Washington Mutual  
27 demanding to rescind the loan and produce the note to "her"  
28 mortgage. (Id. ¶ 25.) Plaintiff then alleges that she is not

1 obligated to tender any sum to rescind the loan "as [p]laintiff  
2 was never a party to the promissory note and never received any  
3 of the loan proceeds." (Id. ¶ 44.)


4 The FAC reverses course yet again in its claim for the  
5 breach of the implied covenant of good faith and fair dealing,  
6 where it claims that "DOE's . . . predecessor entered into  
7 written agreements with [p]laintiff based upon the term [sic] on  
8 the loan as stated in the Note." (Id. ¶ 108.) The FAC  
9 repeatedly alternates between claiming that plaintiff is not a  
10 party to the loan and alleging that the same loan in question is  
11 "plaintiff's loan." (See, e.g., Id. ¶¶ 26-28, 39, 45-46, 52-53,  
12 75, 98, 116-17.)

13 The court expects to see such inconsistencies in pro se  
14 and prisoner litigation, not in a complaint filed by a licensed  
15 attorney. The court cannot be expected to decipher a complaint  
16 that is not only implausible, but nonsensical as well. A  
17 complaint so obviously contradictory and lacking in logic has no  
18 place in federal court. The FAC stops well short of "the line  
19 between possibility and plausibility," and accordingly must be  
20 dismissed. Iqbal, 129 S. Ct. at 1949.

21 IT IS THEREFORE ORDERED that defendant's motion to  
22 dismiss be, and the same hereby is, GRANTED.

23 Plaintiff has twenty days from the date of this Order  
24 to file an amended complaint, if she can do so consistent with  
25 this Order.

26 DATED: March 4, 2010

27   
28 WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE