

1 Christopher J. Fry, Esq. (SBN: 298874)
 Email: cfry@frylawcorp.com
 2 Justin D. McManus, Esq. (SBN: 290833)
 Email: jmcmanus@frylawcorp.com
 3 **FRY LAW CORPORATION**
 980 9th Street, 16th Floor
 4 Sacramento, California 95814
 Telephone: (916) 291-0700
 5 Facsimile: (916) 848-0256

6 Attorneys for Plaintiff,
AMAL HUWEIH

8 **UNITED STATES DISTRICT COURT**
 9 **EASTERN DISTRICT OF CALIFORNIA**

11 AMAL HUWEIH,
 12 Plaintiff,
 13 vs.
 14 CALIBER HOME LOANS, INC.; SUMMIT
 MANAGEMENT COMPANY, LLC; and
 15 DOES 1 through 100, inclusive,
 16 Defendants.

CASE NO.: 2:17-cv-01370-JAM-DB
**JOINT STIPULATION AND ORDER
 GRANTING DEFENDANTS' MOTION
 TO DISMISS**



7
10
17
18
19
20
21
22
23
24
25
26
27
28

1 **TO THE HONORABLE COURT AND TO ALL INTERESTED PARTIES:**

2 Plaintiff AMAL HUWEIH (“Plaintiff”) and defendants CALIBER HOME LOANS, INC.
3 (“Caliber”), and SUMMIT MANAGEMENT COMPANY, LLC (“Summit”), collectively
4 (“Defendants”), by and through their attorneys of record, hereby jointly stipulate as follows:
5

6 1. Instead of opposing Defendants’ motion to dismiss, Plaintiff mistakenly filed a
7 First Amended Complaint (“FAC”) in response thereto. Plaintiff thus both failed to timely
8 oppose the motion to dismiss and filed her FAC outside the permitted window of Fed. R.
9 Civ. P 15.

10 2. To prevent wasting the parties’ and Court’s time and resources with law and
11 motion relating to said oversight, the Parties wish to enter into this stipulation.

12 3. Defendants’ motion to dismiss under FRCP 12(b)(3) is unopposed (and
13 previously stipulated to) and, therefore, should be deemed GRANTED. The parties
14 respectfully request the Court transfer this action, in the interest of justice, to the Northern
15 District of California for the following reasons: (a) Plaintiff resides in the Northern District; (b)
16 The real property that is the subject to this action and faces potential foreclosure is located
17 in the Northern District; (c) Defendants are not California citizens; and (d) To prevent further
18 burden on this Court and unnecessary delay in ruling on further law and motion.

19 4. Defendants’ motion to dismiss under FRCP 12(b)(6) is to be GRANTED with
20 leave to amend. Plaintiff did not oppose the motion, but she believes any defects can be
21 remedied, thus, Plaintiff should be allowed to file an amended complaint if any, within seven
22 (7) days of the date on which the case is electronically docketed by the Northern District
23 Court. If Plaintiff does not so file, Plaintiff’s complaint SHALL be dismissed with prejudice.
24

25 5. The untimely FAC, Docket No. 7, is hereby stricken pursuant to this Court’s
26 minute order, Docket No. 8, and this Stipulation for Order.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

The stipulation is approved.

(1) Defendants’ motion to dismiss under FRCP 12(b)(3) is GRANTED. Venue is proper in, and the case SHALL be transferred to, the United States District Court in and for the Northern District of California;

(2) Defendants’ motion to dismiss under FRCP 12(b)(6) is presently unopposed and hereby GRANTED with leave to amend. Plaintiff did not oppose the motion, but she shall be allowed to file an amended complaint, if any, within seven (7) days of the date on which this case is electronically docketed in the Northern District. If Plaintiff does not so file, Plaintiff’s complaint SHALL be dismissed with prejudice.

(3) Docket No. 7, is hereby stricken.

IT IS SO ORDERED.

Dated: 9/8/2017

/s/ John A. Mendez

United States District Court Judge