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NOT FOR PUBLICATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JANET ZHANG,

Plaintiff,

No. C 09-05921 JSW

v.

**ORDER GRANTING MOTION TO
STRIKE FIRST AMENDED
COMPLAINT**

WALGREEN CO.,

Defendant.

INTRODUCTION

Now before the Court for consideration is the Motion to Strike Amended Complaint filed by Defendant Walgreen Co. (“Walgreen”). The Court has considered the parties’ papers, relevant legal authority, and the record in this case, and finds the matter suitable for disposition without oral argument. *See* N.D. Civ. L.R. 7-1(b). The Court VACATES the hearing set for September 17, 2010 and HEREBY GRANTS Walgreen’s motion. The Court also GRANTS Plaintiff leave for the purposes of either filing a motion for leave to file the proposed amended complaint or for obtaining a stipulation from Walgreen permitting the amendment.

BACKGROUND

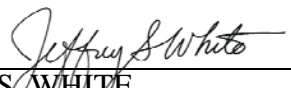
On March 26, 2010, the parties appeared before this Court for the initial case management conference. At that time, the Court April 15, 2010, as the deadline by which the parties could amend their pleadings. (Docket No. 16.) On April 15, 2010, the Court granted the parties’ stipulation to continue that deadline until two weeks after they completed mediation. (Docket No. 23.) On July 14, 2010, the parties completed mediation. (Docket No. 27.) On

1 July 30, 2010, two days after the Court imposed deadline, Plaintiff filed the First Amended
2 Complaint.

3 Walgreen now moves to strike the First Amended Complaint on the basis that it is
4 untimely. Plaintiff, through counsel, has explained the reason for the untimely filing. (*See*
5 Declaration of David A. Depolo, ¶¶ 7, 9-14.) Although Plaintiff missed the deadline imposed
6 by the Court, the Court finds good cause to excuse Plaintiff's two day lapse. However,
7 Plaintiff's proposed amended complaint was not accompanied by a stipulation permitting
8 amendment or a motion for leave to amend. Accordingly, the Court shall strike the proposed
9 First Amended Complaint on the basis that Plaintiff failed to follow the procedures required by
10 Federal Rule of Civil Procedure 15. Because the Court finds that Plaintiff has shown good
11 cause for missing the deadline, the Court's ruling is without prejudice to Plaintiff filing a
12 motion for leave to file the amended complaint. Plaintiff must file that motion by no later than
13 September 9, 2010. Defendant's opposition to the motion shall be due on September 23, 2010,
14 and Plaintiff's reply shall be due on September 30, 2010. Unless the Court determines that a
15 hearing is necessary, the matter will be resolved on the papers.

16 **IT IS SO ORDERED.**

17
18 Dated: September 2, 2010



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE