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United States District Court
For the Northern District of California

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

RICKY PITRE AND LORRAINE PITRE,

Plaintiffs,

No. C 12-06419 WHA

v.

WELLS FARGO BANK, N.A., ASC
(AMERICA'S SERVICING COMPANY),
and NDEX WEST, LLC,

**ORDER SETTING BRIEFING
SCHEDULE AND
VACATING HEARING**

Defendants.


Defendant Wells Fargo timely filed a motion to dismiss on January 10, 2013. The case was reassigned to the undersigned on January 16. Defendant could have re-noticed the motion at that time, but instead withdrew its motion and filed an *amended* motion to dismiss on January 22. Plaintiff's opposition to this amended motion was due February 8. Civ. Local Rule 7-3(a). Instead, plaintiffs, who are *pro se*, filed an amended complaint on that day. Whether it was appropriate for either party to file untimely amended documents, leave to amend a complaint is freely given under FRCP 15(a)(2). In the interest of justice and the efficient resolution of this matter, the amended complaint will be allowed. The briefing schedule and hearing date for defendant's motion to dismiss are therefore vacated and the motion to dismiss and related joinder filings are mooted. Defendants must file an answer or a motion to dismiss the amended complaint by **NOON ON FEBRUARY 22**. See FRCP 15(a)(3). Plaintiffs are warned that they

1 must timely file a response to any motion to dismiss. Failure to timely respond may result in
2 the motion being granted or in dismissal of this action for failure to prosecute.

3 Plaintiffs should be aware that there is free legal assistance available to litigants without
4 lawyers. This service — called the Legal Help Center — is available to anyone who is
5 representing himself in a civil lawsuit in the San Francisco or Oakland division of the United
6 States District Court for the Northern District of California. The Legal Help Center is located in
7 the federal courthouse in San Francisco: 450 Golden Gate Ave, 15th Floor, Room 2796.
8 Assistance is provided by appointment only, and appointments are held in person at the Legal
9 Help Center. A litigant may schedule an appointment by signing up in the appointment book
10 located on the table outside the door of the Center or by calling the Legal Help Center
11 appointment line at 415-782-9000 x8657.

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13 **IT IS SO ORDERED.**

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15 Dated: February 11, 2013.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE