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5 **UNITED STATES DISTRICT COURT**  
6 **NORTHERN DISTRICT OF CALIFORNIA**  
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10 **MARILYN POSTLEWAITE; PAMELA**  
11 **POSTLEWAITE,**

12 **Plaintiffs,**

13 **v.**

14 **WELLS FARGO BANK, N.A.; NDEX WEST,**  
15 **LLC,**

16 **Defendants.**

**Case No.: 12-CV-4465 YGR**

**ORDER GRANTING MOTION FOR LEAVE TO**  
**FILE AMENDED ANSWER**

17 Now before the Court is the motion of Defendant Wells Fargo Bank, N.A., successor by  
18 merger with Wells Fargo Bank Southwest, N.A., f/k/a Wachovia Mortgage, FSB and World  
19 Savings Bank, FSB ("Wells"), to file an amended answer to Plaintiff's complaint. (Dkt. No. 61  
20 ("Motion").) Wells's Motion seeks leave to add two affirmative defenses omitted from its initial  
21 answer. Wells filed its Motion on December 13, 2013. Accordingly, under this Court's Civil Local  
22 Rule 7-3(a), the deadline for Plaintiffs to oppose the Motion was December 27, 2013. To date,  
23 Plaintiffs have filed no opposition.<sup>1</sup>

24 The Motion, being unopposed, and good cause appearing, is **GRANTED**. *Sonoma Cnty.*  
25 *Ass'n of Retired Employees v. Sonoma Cnty.*, 708 F.3d 1109, 1117 (9th Cir. 2013) (leave to amend  
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27 <sup>1</sup> Under Civil Local Rule 7-3(b), if Plaintiffs opted not to oppose the Motion, they were required to  
28 file with the Court a statement of non-opposition "within the time for filing and serving any  
opposition." Plaintiffs are on notice that further failures to practice before this Court in accordance  
with the applicable Local Rules may provide grounds for sanctions. Civ. L.R. 1-4; 11-4(a)(2).


1 is presumptively granted absent either a showing of prejudice or a strong showing of delay, bad  
2 faith, futility of amendment, or repeated failure to cure deficiencies through amendment); *Eminence*  
3 *Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (prejudice is the preeminent,  
4 "touchstone" factor); *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 187 (9th Cir. 1987) ("The  
5 party opposing amendment bears the burden of showing prejudice.").

6 The Court **VACATES** the motion hearing set for January 21, 2014. Civ. L.R. 7-1(b). Wells's  
7 motion to appear telephonically at that hearing (Dkt. No. 64) is **DENIED AS MOOT**.

8 This Order terminates Docket Nos. 61 and 64.

9 **IT IS SO ORDERED.**

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11 Date: January 6, 2014

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE