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E-Filed 1/8/2009

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

RHONDA KASTAN,

Plaintiff,

v.

COUNTRYWIDE HOME LOANS, INC., and
DOES 1-50, inclusive,

Defendants.

Case Number C 08-5104 JF (HRL)

ORDER¹ DENYING MOTION TO
DISMISS AS MOOT

[re: doc. no. 4]

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendant Countrywide Home Loans, Inc. (“Countrywide”) has moved to dismiss the complaint filed by Plaintiff Rhonda Kastan.² Plaintiff alleges multiple federal and state claims for relief in connection with her purchase and refinance of a residential property. Plaintiff did not file opposition to Countrywide’s motion to dismiss. On January 6, 2009, three days before the scheduled hearing date, Plaintiff filed a first amended complaint (“FAC”). The Ninth Circuit has prescribed a liberal standard favoring leave to amend

¹ This disposition is not designated for publication in the official reports.

² The Court has determined that the motion is appropriate for disposition without oral argument pursuant to Civil Local Rule 7-1(b).

1 at least once. *See Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051-52 (9th Cir.
2 2003). *See also* Fed. R. Civ. P. 15(a). Accordingly, the Court DENIES the motion to dismiss as
3 moot, and Countrywide may file a subsequent motion to dismiss or other pleading in response to
4 the operative FAC.

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6 IT IS SO ORDERED.

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8 DATED: January 8, 2009

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11 JEREMY FOWEL
12 United States District Judge
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1 This Order has been served upon the following persons:

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