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E-filed 1/19/2011

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

ESMERALDA DIAZ,

Plaintiff,

v.

WORLD SAVINGS & LOAN; NDEX WEST,
L.L.C.

Defendants.

Case Number CV-10-4909-JF

ORDER¹ GRANTING MOTION TO
DISMISS WITH LEAVE TO AMEND;
VACATING HEARING DATE

[Re: Docket No. 10]

Defendant Wachovia Mortgage, a division of Wells Fargo Bank, N.A., f/k/a Wachovia Mortgage, FSB, f/k/a World Savings Bank, FSB, (sued as “World Savings & Loan”)(“Wachovia”) moves to dismiss all eight claims for relief in Plaintiff’s complaint. Plaintiff alleges violations of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, and related state law claims. The Court concludes that this motion is appropriate for determination without oral argument and will vacate the hearing date of January 21, 2011. *See* Civ. L.R. 7-1(b).

Under this Court’s Civil Local Rules, Plaintiff’s opposition was due at least twenty-one days before the noticed hearing date of January 21, 2011—here, not later than December 31, 2010.

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

1 See Civ. L.R. 7-3(a). As of the date of this order, Plaintiff has not filed opposition papers.

2 Because the instant motion appears well-taken and is unopposed, the motion to dismiss
3 will be granted with leave to amend. Any amended pleading shall be filed within twenty (20)
4 days after the date of this order.

5 **ORDER**

6 For good cause shown,

- 7 (1) the motion to dismiss is GRANTED, WITH LEAVE TO AMEND;
8 (2) any amended pleading shall be filed within twenty (20) days after the date of this
9 order;
10 (3) the hearing date of January 21, 2011 is VACATED.

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12 DATED: January 19, 2011

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14 JEREMY FOGEL
United States District Judge