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

DELIA S. PALCE,

Plaintiff,

v.

JP MORGAN CHASE BANK, a National
Association F/K/A WASHINGTON MUTUAL
BANK; CALIFORNIA RECONVEYANCE
COMPANY, a California Corporation, and DOES
1 through 50, inclusive,

Defendants.

Case Number 5:11-cv-02932-JF (HRL)

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

[Re: Docket Nos. 7, 8, 9]

This action arises from a loan secured by the residence of Plaintiff Delia S. Palce (“Palce”). Palce seeks to set aside a nonjudicial foreclosure sale that was conducted on April 8, 2011 by Defendant California Reconveyance Company (“Cal Reconveyance”) acting as trustee for the lender under the Deed of Trust.² Defendants move to strike certain portions of the

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

² See Ex. A to Defendants’ Request for Judicial Notice. Although Defendant Washington Mutual Bank (“Washington Mutual”) is listed as the lender on the Deed, it since has been acquired by JP Morgan Chase Bank. *Id.* at Exs. A, E.

1 complaint and to dismiss the complaint in its entirety. The Court concludes that the motions are
2 appropriate for determination without oral argument and will vacate the hearing date of August
3 19, 2011. See Civ. L.R. 7-1(b).

4 Pursuant to Civ. L.R. 7-3(a), Plaintiff was required to file opposition to the motions not
5 more than fourteen days after the motions were noticed and served, here not later than July 19,
6 2011.³ As of the date of this order, Plaintiff has yet to file opposition papers. Because the
7 motion to dismiss appears well-taken and is unopposed, the motion will be granted, with leave to
8 amend.

9 **ORDER**

10 For good cause shown,

- 11 (1) the motion to dismiss is GRANTED, WITH LEAVE TO AMEND;
- 12 (2) Defendants' request for judicial notice in support of the motion to dismiss also is
13 GRANTED as to the Deed of Trust and Purchase Agreement identified in Exs. A
14 and E;
- 14 (3) Defendants' motion to strike is TERMINATED as moot;
- 15 (4) any amended pleading shall be filed within twenty (20) days after the date of this
16 order; and
- 17 (5) the hearing date of August 19, 2011 is VACATED

18 DATED: August 16, 2011

19 
20 JEREMY FOGEL
21 United States District Judge

22
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26 _____
27 ³ Originally, Defendants noticed the instant motions for hearing on August 2, 2011.
28 However, the matter was reassigned on June 27, 2011, and Defendants re-noticed the motions for
hearing on August 19, 2011.

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2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
4
5 **SAN JOSE DIVISION**

6 DELIA S. PALCE,

7 Plaintiff,

8 v.
9

10 JP MORGAN CHASE BANK, a National
11 Association F/K/A WASHINGTON
12 MUTUAL BANK; CALIFORNIA
13 RECONVEYANCE COMPANY, a
California Corporation, and DOES 1 through
50, inclusive,

14 Defendants.
15

Case Number 5:11-cv-02932-JF (HRL)

CERTIFICATE OF SERVICE

16
17 I, the undersigned, hereby certify that I am an employee of the Office of the Clerk,
18 United States District Court, Northern District of California.

19 On August 16, 2011, I served a true and correct copy of the attached document to each of
20 the persons hereinafter listed by placing said copy in a postage paid envelope and depositing
21 said envelope in the United States mail, or by placing said envelope in the outgoing mail
22 delivery receptacle located in the Clerk's Office:

23 Delia S Palce
2685 Rosalinda Court
San Jose, CA 95121

24 DATED: August 16, 2011

For the Court
Richard W. Weiking, Clerk

25
26 By: _____/s/_____
Diana Munz
27 Courtroom Deputy Clerk
28