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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MARIANNE PRETSCHER-JOHNSON,
Plaintiff,
v.
AURORA BANK FSB, et al.,
Defendants.

Case No. 12-cv-05817-BLF

**ORDER ADOPTING REPORT AND
RECOMMENDATION; DISMISSING
CASE FOR LACK OF SUBJECT
MATTER JURISDICTION**

Re: Dkt. No. 47

This case is a quiet title action originally brought before Magistrate Judge Paul Singh Grewal. Before the Court is Judge Grewal’s April 3, 2014 Report and Recommendation that the case be dismissed for lack of subject matter jurisdiction.¹ Dkt. No. 47. On April 14, 2014, Plaintiff filed a timely objection to the Magistrate Judge’s Report and Recommendation stating that “Plaintiff objects to the magistrate judge’s recommendation that the case be dismissed and respectfully requests that this Court, in the alternative, transfer this case.” Dkt. No. 52. Also pending before the Court are Defendants’ two motions to dismiss Plaintiff’s Second Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6), Dkt. Nos. 39, 42, which are fully briefed,² as well as Plaintiff’s unopposed motion for leave to file a Third Amended Complaint, Dkt. No. 51.

Having reviewed the Report and Recommendation *de novo*,³ along with the record in this

¹ Although all parties who have appeared consented to magistrate jurisdiction, two defendants have yet to appear and, accordingly, have not consented to magistrate jurisdiction. Accordingly, Judge Grewal ordered that the case be reassigned to a district judge for consideration of his Report and Recommendation. Dkt. No. 47.

² At the May 7, 2014 Case Management Conference, counsel for Defendants indicated that they did not object to the Court’s consideration of Plaintiff’s proposed sur-reply. Plaintiff’s motion for leave to file a sur-reply, Dkt. No. 49, is therefore granted. *See* Dkt. No. 56.

³ In this district, any objections to a dispositive report and recommendation must be made as a

1 case, the court finds that the Report and Recommendation is well-founded in fact and in law and
2 therefore adopts the Report and Recommendation.

3 Because subject matter jurisdiction is lacking, the Court need not address the Defendants'
4 motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). Accordingly, those motions are DENIED
5 as moot.

6 Finally, after considering Plaintiff's proposed Third Amended Complaint, the Court finds
7 that Plaintiff's proposed amendments would not cure the jurisdictional defect identified in Judge
8 Grewal's Report and Recommendation. Accordingly, Plaintiff's motion for leave to file a Third
9 Amended Complaint is DENIED.

10 This case is DISMISSED, without prejudice, for lack of subject matter jurisdiction. The
11 Clerk shall close the file.


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13 **IT IS SO ORDERED.**

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15 Dated: May 14, 2014

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BETH LABSON FREEMAN
United States District Judge

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motion for de novo determination, and must "specifically identify the portions of the Magistrate Judge's findings, recommendation or report to which objection is made and the reasons and authority therefor." Civil L.R. 72-3(a). Plaintiff's blanket objection to Judge Grewal's report and recommendation does not comply with these local rule requirements. However, as Plaintiff is proceeding *pro se*, the Court shall review the Report and Recommendation *de novo*.