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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RENE PEREZ; HEATHER PEREZ,  
  
                                  Plaintiffs,  
  
v.  
  
BANK OF AMERICA, N.A.; BAC HOME  
LOANS SERVICING, LP; RECONTRUST  
COMPANY, N.A.; AND DOES 1-50,  
inclusive,  
  
                                  Defendants.

Case No. C-12-06486-RMW

**ORDER DENYING DEFENDANTS'  
MOTION TO DISMISS**

[Re Docket No. 6, 13]

Defendants' motion to dismiss, Dkt. No. 6, appears to be addressed to the First Amended Complaint. On January 18, 2013, plaintiffs filed a Second Amended Complaint. Dkt. No. 11. As they filed the amended complaint within 21 days of service of the motion to dismiss, they were free to amend as a matter of course. Fed. R. Civ. P. 15(a). The parties now stipulate to a hearing going forward on a motion that does not address the operative complaint. Because it will be more efficient for the court and the parties to resolve issues related to the operative complaint, defendants' motion to dismiss the First Amended Complaint is denied as moot. The stipulation is

1 thus not accepted. Defendant may file a motion to dismiss the Second Amended Complaint by  
2 February 8, 2013.

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Dated: January 24, 2013



Ronald M. Whyte  
United States District Court Judge