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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSEPHINE CLEVELAND, JAY
CLEVELAND

Plaintiffs,

vs.

DEUTSCHE BANK NATIONAL TRUST
COMPANY, TRUSTEE FOR NEW
CENTURY, NEW CENTURY MORTGAGE
CORP., CHASE HOME FINANCE LLC,

Defendants.

CASE NO. 08cv0802 JM(NLS)

ORDER GRANTING MOTION TO
DISMISS FOURTH AMENDED
COMPLAINT WITHOUT LEAVE TO
AMEND

Defendant Deutsche Bank National Trust Company (“Deutsche Bank”), trustee for New Century, moves to dismiss Plaintiffs Fourth Amended Complaint (“FAC”). Plaintiffs Josephine and Jay Cleveland did not file an opposition nor a statement of non-opposition as required by Local Rule 7.1(e)(2). Pursuant to Local Rule 7.1(d)(1), the court finds this matter appropriate for decision without oral argument.


The court grants the motion to dismiss the FAC without leave to amend for several reasons. First, the court has addressed the adequacy of Plaintiffs’ complaint on several occasions, most recently on February 2, 2009 wherein the court granted Defendants motion to dismiss the Third Amended Complaint (“TAC”), identified the complaint’s deficiencies, and granted leave to amend. (Docket No. 44). The FAC sets forth essentially the same allegations contained in the TAC. Accordingly, for the reasons set forth in this court’s prior order, (Docket No. 44), and for the reasons identified by

1 Deutsche Bank, the court grants the motion to dismiss. Second, pursuant to Local Rule 7.1(e)(2), the
2 court construes Plaintiffs' failure to file a response to Deutsche Bank's motion to dismiss as consent
3 to dismissal of the complaint without leave to amend.

4 In sum, the motion to dismiss is granted without leave to amend.

5 **IT IS SO ORDERED.**

6 DATED: June 15, 2009

7 
8 Hon. Jeffrey T. Miller
United States District Judge

9 cc: All parties

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