UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HILDA VAN BOOM,

Plaintiff, vs.

RECONTRUST COMPANY, N.A., et al.,

Defendants.

CASE NO. 09cv1885 WQH (WMC)

ORDER

HAYES, Judge:

The matters before the Court are Plaintiff's Motion for Leave to File Second Amended Complaint (Doc. # 16), Defendant JP Morgan Chase's Motion to Dismiss (Doc. # 13), and Defendant Uniwest Mortgage Corporation's Motion to Dismiss (Doc. # 14).

BACKGROUND

Plaintiff initiated this action by filing her Complaint on August 28, 2009. (Doc. # 1). On October 30, 2009, Plaintiff filed her First Amended Complaint ("FAC") as of right. (Doc. # 8). On November 16, 2009, Defendant JP Morgan Chase ("JPMC") filed a Motion to Dismiss. (Doc. # 13). On November 18, 2009, Defendant Uniwest Mortgage Corporation ("Uniwest") filed a Motion to Dismiss. (Doc. # 14). On December 4, 2009, Plaintiff filed a response in opposition to JPMC's Motion to Dismiss. (Doc. # 15). The opposition states that Plaintiff intended to file a Motion for Leave to file SAC which would address the problems with the FAC that JPMC raised in its Motion to Dismiss. (Doc. # 15 at 3). Plaintiff did not

file a response in opposition to Uniwest's Motion to Dismiss. On December 7, 2009, Plaintiff filed a Motion for Leave to file a Second Amended Complaint ("SAC"). (Doc. # 16). On December 24, 2009, JPMC filed a response in opposition to the Motion for Leave to File Second Amended Complaint. (Doc. # 18).

ANALYSIS

In the Motion for Leave to file SAC, Plaintiff contends her Proposed SAC addresses the issues raised in the Motion to Dismiss filed by JPMC. (Doc. # 16-1 at 3). Plaintiff does not reference Uniwest's Motion to Dismiss. *Id.* Plaintiff states that her Proposed SAC is attached to the Motion for Leave to File a SAC as Exhibit A. *Id.* Plaintiff states that she has "deleted six of the causes of action in the [FAC] including the HOEPA claims, Declaratory Relief, claims under the Federal Credit Reporting Act, Slander of Title, Predatory Lending, Negligence, and Usury." *Id.* However, Exhibit A is in fact a copy of Plaintiff's FAC. (Doc. 16-2). Plaintiff's Proposed SAC is not attached to the motion. As Plaintiff noted in her opposition to JPMC's Motion to Dismiss, attaching the proposed amended complaint to the motion to amend is required before the Court may grant a motion for leave to amend. (Doc. # 15 at 3). Plaintiff's Motion for Leave to File SAC is therefore denied.

Plaintiff's opposition to JPMC's Motion to Dismiss does not address the merits of JPMC's motion, rather it concedes that there were defects in the FAC and states that Plaintiff will file a Motion for Leave to File a SAC which addresses these defects. Pursuant to Local Rule of Civil Procedure 7.1.f.3.a, an opposition "must contain a brief and complete statement of all reasons in opposition to the position taken by the movant" Plaintiff's failure to respond to JPMC's arguments that the FAC fails to state a claim constitutes consent to grant the motion. *See Local Rule of Civil Procedure* 7.1.f.3.c. The Court therefore grants JPMC's Motion to Dismiss.

Plaintiff did not file an opposition to Uniwest's Motion to Dismiss. Pursuant to Local Rule of Civil Procedure 7.1.f.3.c, failure to timely file an opposition constitutes consent to granting the motion. The Court therefore grants Uniwest's Motion to Dismiss.

1	CONCLUSION	
2	IT IS HEREBY ORDERED that:	
3	(1)	Plaintiff's Motion For Leave to File Second Amended Complaint (Doc. # 16) is
4		DENIED without prejudice to refile.
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6	(2)	Defendant JP Morgan Chase's Motion to Dismiss (Doc. # 13) is GRANTED .
7		Plaintiff's claims against JP Morgan Chase are dismissed without prejudice.
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9	(3)	Defendant Uniwest Mortgage Corporation's Motion to Dismiss (Doc. # 14) is
10		GRANTED. Plaintiff's claims against Uniwest Mortgage Corporation are
11		dismissed without prejudice.
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13	DATED: Jan	nuary 19, 2010
14		William Q. Hayes WILLIAM Q. HAYES
15		United States District Judge
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