

1 file a response in opposition to Uniwest’s Motion to Dismiss. On December 7, 2009, Plaintiff
2 filed a Motion for Leave to file a Second Amended Complaint (“SAC”). (Doc. # 16). On
3 December 24, 2009, JPMC filed a response in opposition to the Motion for Leave to File
4 Second Amended Complaint. (Doc. # 18).

5 **ANALYSIS**

6 In the Motion for Leave to file SAC, Plaintiff contends her Proposed SAC addresses
7 the issues raised in the Motion to Dismiss filed by JPMC. (Doc. # 16-1 at 3). Plaintiff does
8 not reference Uniwest’s Motion to Dismiss. *Id.* Plaintiff states that her Proposed SAC is
9 attached to the Motion for Leave to File a SAC as Exhibit A. *Id.* Plaintiff states that she has
10 “deleted six of the causes of action in the [FAC] including the HOEPA claims, Declaratory
11 Relief, claims under the Federal Credit Reporting Act, Slander of Title, Predatory Lending,
12 Negligence, and Usury.” *Id.* However, Exhibit A is in fact a copy of Plaintiff’s FAC. (Doc.
13 16-2). Plaintiff’s Proposed SAC is not attached to the motion. As Plaintiff noted in her
14 opposition to JPMC’s Motion to Dismiss, attaching the proposed amended complaint to the
15 motion to amend is required before the Court may grant a motion for leave to amend. (Doc.
16 # 15 at 3). Plaintiff’s Motion for Leave to File SAC is therefore denied.

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

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

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CONCLUSION


IT IS HEREBY ORDERED that:

- (1) Plaintiff's Motion For Leave to File Second Amended Complaint (Doc. # 16) is **DENIED** without prejudice to refile.

- (2) Defendant JP Morgan Chase's Motion to Dismiss (Doc. # 13) is **GRANTED**. Plaintiff's claims against JP Morgan Chase are dismissed without prejudice.

- (3) Defendant Uniwest Mortgage Corporation's Motion to Dismiss (Doc. # 14) is **GRANTED**. Plaintiff's claims against Uniwest Mortgage Corporation are dismissed without prejudice.

DATED: January 19, 2010


WILLIAM Q. HAYES
United States District Judge