

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MARCIA M. BERGENFIELD

Plaintiff,

v.

U.S. BANK, NATIONAL ASSOCIATION,
AS TRUSTEE FOR CSFB MORTGAGE-
BACKED PASS-THROUGH
CERTIFICATES SERIES 2004-5;
NATIONSTAR MORTGAGE LLC; DOES I
through X; ROE CORPORATIONS I through
X; inclusive,

Defendants.

Case No. 2:16-cv-01691-RFB-PAL

ORDER

Before the Court is Plaintiff's Motion for Leave to Amend. (ECF No. 30). For the reasons stated below, Plaintiff's Motion is denied.

The complaint was first filed in state court on June 9, 2016 and removed on July 18, 2016. ECF No. 1. This Court granted Defendants' Motion for Summary Judgment on September 30, 2017 and issued a written order to that effect on October 10, 2017. (ECF Nos. 28, 29). In its written order, the Court noted: "Equitable defenses such as laches, for example, may apply. Laches was not raised here and the Court need not consider whether it would provide a basis for the relief sought." Plaintiff now seeks leave to amend her complaint to include a laches argument.

Leave to amend shall be given freely when justice so requires. Fed. R. Civ. P. 15(a)(2). Leave to amend is granted liberally but not automatically. Jackson v. Bank of Hawaii, 902 F.2d 1385, 1387 (9th Cir. 1990). The Court "need not grant leave to amend where the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile." AmerisourceBergen Corp. v. Dialysist W., Inc., 465 F.3d 946, 951 (9th Cir. 2006).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Plaintiff's request for leave to amend comes nearly a year after the motion to amend deadline and several days after the Court's final entry of summary judgment in favor of Defendants. Plaintiff's amendment is therefore at least futile. Moreover, to the extent Plaintiff intends to amend the complaint to avoid waiver of this claim in the future, such an amendment would unfairly prejudice Defendants, who did not have the opportunity to respond.

Accordingly,

IT IS ORDERED that Plaintiff's Motion for Leave to Amend is **DENIED**. (ECF No. 30). In accordance to this Court's Order (ECF No. 29), Summary Judgment was granted in favor of Defendants and against Plaintiff; the Clerk of the Court is directed to enter judgment accordingly and close this case.

DATED: September 20, 2018.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE