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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 BARBARA ROBINSON,

11 Plaintiff,

12 v.

13 WELLS FARGO BANK
14 NATIONAL ASSOCIATION, et al.,

15 Defendants.

CASE NO. C17-0061JLR

ORDER GRANTING MOTION
TO AMEND COMPLAINT AND
DENYING MOTION TO
DISMISS AS MOOT

16 **I. INTRODUCTION**

17 Before the court are: (1) Defendant Bank of America's ("BOA") motion to
18 dismiss for failure to state a claim (1st MTD (Dkt. # 7)); and (2) Plaintiff Barbara
19 Robinson's motion to amend her complaint (MTA (Dkt. # 13)). No party has filed an
20 opposition to Ms. Robinson's motion (*see generally* Dkt.), and the time for doing so has
21 now expired, *see* Local Rules W.D. Wash. LCR 7(d)(3). Defendants Wells Fargo Bank
22 National Association, As Trustee for the Certificate Holders of the MLMI Trust,

1 Mortgage Loan Asset-Backed Certificate Series 2005 WMC2 (“Wells Fargo”), Mortgage
2 Electronic Registration Systems (“MERS”), Nationstar Mortgage LLC (“Nationstar”),
3 and Jay Bray state that they do not object to Ms. Robinson’s amended complaint. (*See* 2d
4 MTD (Dkt. # 19) at 2). Accordingly, the court GRANTS Ms. Robinson’s motion. As a
5 result, BOA’s motion to dismiss Ms. Robinson’s original complaint is now moot, and the
6 court DENIES BOA’s motion on that ground.

7 **II. BACKGROUND & ANALYSIS**

8 On January 13, 2017, Wells Fargo, Nationstar, MERS, and Mr. Bray removed this
9 action from King County Superior Court to federal court. (Notice of Rem. (Dkt. # 1).)

10 On January 20, 2017, BOA filed a motion to dismiss Ms. Robinson’s complaint. (*See* 1st
11 MTD.) On February 3, 2017, Ms. Robinson filed a motion to amend her complaint. (*See*
12 MTA.) On March 30, Wells Fargo, MERS, Nationstar, and Mr. Bray filed a second
13 motion to dismiss Ms. Robinson’s proposed amended complaint. (*See* 2d MTD.) In their
14 motion, Wells Fargo, MERS, Nationstar and Mr. Bray state that they do not object to Ms.
15 Robinson’s amended complaint. (*Id.* at 2.)

16 Federal Rule of Civil Procedure 15(a) provides, in pertinent part, that “[a] party
17 may amend its pleading once as a matter of course within . . . 21 days after service of a
18 [required] responsive pleading or 21 days after service of a motion under Rule
19 12(b) . . . whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(B). Ms. Robinson filed her
20 motion to amend her complaint within 21 days of BOA’s motion to dismiss. (*See* 1st
21 MTD; MTA.) Accordingly, Ms. Robinson may amend her complaint “as a matter of
22 course” this one time, and the court, therefore, grants her motion to amend.

1 Ms. Robinson's amended complaint (Dkt. ## 13-1, 13-2) is now the operative
2 complaint in this proceeding and supersedes Ms. Robinson's original complaint. *See*
3 *Lacey v. Maricopa Cty.*, 693 F.3d 896, 927 (9th Cir. 2012) (en banc) (recognizing "the
4 general rule . . . that an amended complaint supercedes [sic] the original complaint and
5 renders it without legal effect"). Because Ms. Robinson's original complaint no longer
6 has any legal effect, BOA's motion to dismiss that complaint is moot. Accordingly, the
7 court denies BOA's motion on that ground.

8 Presently pending is a second motion to dismiss by Wells Fargo, MERS,
9 Nationstar, and Mr. Bray. (*See* 2d MTD.) The noting date for the second motion is April
10 21, 2017. (*See id.* at 1.) The court directs Ms. Robinson to file her response to the
11 second motion to dismiss no later than Monday, April 17, 2017. *See* Local Rules W.D.
12 Wash. 7(d)(3) ("Any opposition papers shall be filed and served not later than the
13 Monday before the noting date."). Although Ms. Robinson may seek leave to further
14 amend her complaint in her response to the second motion to dismiss, the court will
15 decline to entertain any further motions to amend the complaint until after the court
16 resolves the pending second motion to dismiss.

17 **III. CONCLUSION**

18 Based on the foregoing analysis, the court GRANTS Ms. Robinson's motion to
19 amend her complaint (Dkt. # 13). Ms. Robinson's amended complaint (Dkt. ## 13-1,
20 13-2) is now the operative complaint in this proceeding. Accordingly, the court DENIES
21 BOA's motion to dismiss Ms. Robinson's original complaint as moot (Dkt. # 7). The
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1 court further DIRECTS Ms. Robinson to file her response, if any, to the second motion to
2 dismiss no later than Monday, April 17, 2017.

3 Dated this 3rd day of April, 2017.

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6 JAMES L. ROBART
7 United States District Judge
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