

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JESSICA MAE MATHESON, dba
JESS'S WHOLESALE,

Plaintiff,

v.

LEE SMITH and DOYLE McMINN, et
al,

Defendant.

CASE NO. C11-5946RBL

ORDER

This is an Order **DENYING** Motion for Remand to District Court to allow the District Court to rule on Plaintiff/Appellant's Motion to File Amended and Supplemental Complaint [Dkt. #46] and Motion to File First Amended and Supplemental Complaint [Dkt. #36].

On May 17, 2012, this Court entered an Order dismissing all of plaintiff's claims, and on May 22, 2012, this Court entered a Judgment reflecting the dismissal. [Dkt. #'s 33 and 34]. On June 5, 2012, after the Judgment had been entered, Ms. Matheson filed a Motion to File an Amended and Supplemental Complaint, along with a copy of her First Amended and Supplemental Complaint. On June 8, 2012, Ms. Matheson filed a Notice of Appeal. She then

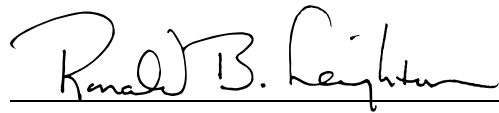
1 filed a Motion to Remand, but she filed it in this Court, apparently asking this Court to exercise
2 jurisdiction and rule on the motion to file the amended and supplemental complaint.

3 The Ninth Circuit has made it clear that after a judgment has been entered, a motion to
4 amend the complaint pursuant to Civil Rule 15(a) may be considered only after the judgment is
5 reopened under Civil Rule 59 or 60. *Lindauer v. Rogers*, 91 F.3d 1355, 1359 (9th Cir. 1996).

6 The *Lindauer* Court explained that this holding was consistent with the principle promoting
7 finality of judgments, *id.* at 1357. Ms. Matheson has not sought to reopen the judgment pursuant
8 to Civil Rule 59 or 60, and therefore this Court cannot allow her to amend her complaint. *See,*
9 *Benson v. J.P. Morgan Chase Bank*, 673 F.3d 1207, 1218 (2012) (holding, where the district
10 court had dismissed under CR 12(b)(1) and a judgment had been entered, the plaintiffs could
11 seek to amend their complaint only after filing a CR 60 motion.).

12 For the foregoing reasons, the Plaintiff's Motions are **DENIED**.

13 Dated this 17th day of July, 2012.

14 

15 Ronald B. Leighton
16 United States District Judge