

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-1054

CARLOS MIRANDA,

Plaintiff - Appellant,

v.

WELLS FARGO BANK, N.A.,

Defendant - Appellee,

and

WACHOVIA BANK, N.A.,

Defendant,

AMERICAN BANKERS ASSOCIATION; CONSUMER BANKERS ASSOCIATION;
CONSUMER MORTGAGE COALITION,

Amici Supporting Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Gerald Bruce Lee, District
Judge. (1:11-cv-00667-GBL-JFA)

Submitted: October 30, 2012

Decided: December 10, 2012

Before DUNCAN, DAVIS, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Ivan Yacub, YACUB LAW OFFICES, Falls Church, Virginia, for Appellant. Mary C. Zinsner, Billy B. Ruhling, II, S. Mohsin Reza, TROUTMAN SANDERS LLP, McLean, Virginia, for Appellee. Jeffrey P. Naimon, Kirk D. Jensen, Michael R. Williams, BUCKLEYSANDLER LLP, Washington, D.C., for Amici Curiae.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carlos Miranda appeals from the district court's order dismissing his civil action alleging violations of the Truth in Lending Act ("TILA"). The district court determined that the complaint was time-barred and that Miranda failed to allege tender of the net loan proceeds and therefore failed to state a claim for rescission. We have reviewed the record and find no reversible error. While our recent decision in Gilbert v. Residential Funding, LLC, 678 F.3d 271 (4th Cir. 2012), overturns the district court's dismissal of the complaint as time-barred, we affirm on the basis that Miranda failed to state a claim for rescission by failing to allege tender of the net loan proceeds. Miranda v. Wells Fargo Bank, N.A., No. 1:11-cv-00667-GBL-JFA (E.D. Va. filed Dec. 12, 2011; entered Dec. 14, 2011). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED