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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

STEPHEN FOOS,

No. CIV S-10-2201-FCD-CMK

Plaintiff,

vs.

ORDER

WELLS FARGO HOME MORTGAGE,

Defendant.

_____ /

Plaintiff, proceeding pro se, brings this civil action regarding his home loan mortgage, apparently alleging violations of the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 *et seq.*, and the Truth in Lending Act, 15 U.S.C. § 1601, *et seq.* The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On December 16, 2010, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. No objections to the findings and recommendations have been filed.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the Magistrate Judge's analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed December 16, 2010, are adopted
3 in full;

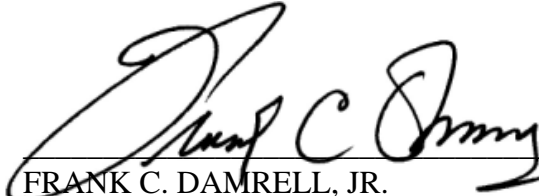
4 2. Defendant's motion to dismiss (Doc. 14) is granted;

5 3. Plaintiff is granted leave to file an amended complaint in order to cure the
6 pleading defects identified in the Magistrate Judge's findings and recommendations, and to set
7 forth fact sufficient to support his allegations and claim to equitable tolling;

8 4. Any amended complaint must be filed within 30 days of the date of this
9 order; and

10 5. If no amended complaint is filed within the time frame set herein, the
11 court may dismiss this action for failure to prosecute.

12 DATED: January 14, 2011.

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15 FRANK C. DAMRELL, JR.
16 UNITED STATES DISTRICT JUDGE
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