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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNLy R. BECKER, THE  
BECKER TRUST DATED  
MARCH 25, 1991,

NO. CIV. S-10-2799 LKK/KJN

Plaintiffs,

v.

O R D E R

WELLS FARGO BANK, N.A.,  
WACHOVIA MORTGAGE  
CORPORATION; DOES 1-20,

Defendants.

\_\_\_\_\_/

Plaintiff's motion for reconsideration came on for hearing on October 24, 2011. Plaintiff has sued Wells Fargo Bank, N.A., a national banking association, and Wachovia Mortgage Corporation, which is, or was, regulated as a national banking association. See Watters v. Wachovia Bank, N.A., 550 U.S. 1, 6 (2007) (describing the regulatory status of Wachovia Mortgage Corporation as a wholly owned subsidiary of the former Wachovia Bank, N.A.). Despite the apparent status of both defendants as national banking associations, the parties have analyzed the preemption issues under

1 the Home Owners' Loan Act ("HOLA"), 12 U.S.C. §§ 1461, et seq.,  
2 which applies only to federal savings associations.<sup>1</sup> See 12 C.F.R.  
3 § 560.2(a) (pursuant to HOLA, "*federal savings associations* may  
4 extend credit as authorized under federal law ... without regard  
5 to state laws purporting to regulate or otherwise affect their  
6 credit activities") (emphasis added).

7 The complaint does not allege any wrongful conduct on the part  
8 of "World Savings" bank, the only federal savings association  
9 mentioned in the complaint.<sup>2</sup>

10 Accordingly,

11 1. The parties shall provide further briefing on the proper  
12 preemption standard applicable in this case.

13 2. Notwithstanding any briefing schedule contained in the  
14 Minute Order arising from this hearing,

15 a. Defendants' brief is due no later than November 9,  
16 2011; and

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18 <sup>1</sup> The court is aware that the banking laws were amended in  
19 July 2010, and apparently eliminated or reduced the difference in  
20 preemption standards applicable to the two types of banks. See  
21 "Dodd-Frank Wall Street Reform and Consumer Protection Act," Pub.  
22 L. No. 111-203, 124 Stat. 1376 (2010). However, the amending law  
23 appears not be retroactive in effect. See Copeland-Turner v. Wells  
24 Fargo Bank, N.A., \_\_\_ F. Supp.2d \_\_\_, 2011 WL 2650853 (D. Or. July  
25 6, 2011) (discussing the Act at length). Accordingly, the  
26 amendments do not affect this case.


23 <sup>2</sup> World Savings Bank is the alleged originator of the loans.  
24 Defendant mentions "Wachovia Mortgage, FSB," a federal savings  
25 bank, in the Notice of Removal. However, there appear to be no  
26 allegations leveled against this entity in the complaint. The  
court also notes that there is no allegation that this entity is  
related to defendant Wachovia Mortgage Corporation, which as noted  
above, appears to be or to have been a wholly owned national  
banking association subsidiary.

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b. Plaintiff's brief, if any, is due no later than  
November 23, 2011.

IT IS SO ORDERED.

DATED: October 26, 2011.

  
LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT