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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PAULINE MARZETTE, an individual,	)	Case No. 2:11-CV-2089 JAM-CKD
	)	
Plaintiff,	)	<u>ORDER GRANTING DEFENDANTS'</u>
	)	<u>MOTION TO DISMISS</u>
v.	)	
	)	
PROVIDENT SAVINGS BANK, F.S.B.;	)	
WELLS FARGO; AMERICAN SERVICING	)	
COMPANY; NDEX WEST, LLC; E*TRADE	)	
BANK; and DOES 1-20, inclusive,	)	
	)	
Defendants.	)	

This matter is before the Court on Defendants' Wells Fargo, N.A. (named herein as "Wells Fargo") and America's Servicing Company (named herein as "American Servicing Company") (collectively "Defendants") Motion to Dismiss (Doc. #19) Plaintiff Pauline Marzette's ("Plaintiff") First Amended Complaint ("FAC") (Doc. #18).<sup>1</sup> Defendants move to dismiss the FAC for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). Defendant NDEX West, LLC joined in the motion to dismiss (Doc. #21). Plaintiff did not file an opposition or statement of non-

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<sup>1</sup> This matter was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). Oral argument was scheduled for February 22, 2012.

1 opposition in response to the motion to dismiss or the joinder  
2 motion.

3 Having carefully reviewed the papers, the Court finds that the  
4 FAC fails to state a claim and should be dismissed without leave to  
5 amend for the reasons set forth in Defendants' motion.

6 Accordingly, Defendant's motion to dismiss is GRANTED. NDEX West,  
7 LLC's joinder motion is also granted, and all claims against NDEX  
8 West, LLC are likewise dismissed without leave to amend.

9 Additionally, Eastern District Local Rule 230(c) requires a  
10 party responding to a motion to file either an opposition to the  
11 motion or a statement of non-opposition, no less than fourteen (14)  
12 days preceding the noticed hearing date. Local Rule 110 authorizes  
13 the Court to impose sanctions for "failure of counsel or of a party  
14 to comply with these Rules." Plaintiff did not file an opposition  
15 or statement of non-opposition in response to the motion to  
16 dismiss. Therefore, the Court will sanction Plaintiff's counsel,  
17 Swazi N. Taylor, \$150.00, unless he shows good cause for his  
18 failure to comply with the Local Rules.

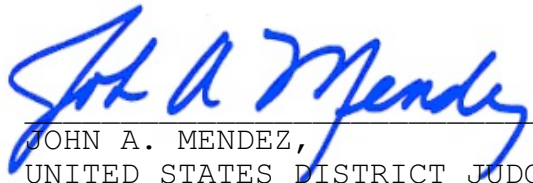
19 ORDER

20 For the reasons set forth above, Defendants' Motion to Dismiss  
21 is GRANTED, WITH PREJUDICE. NDEX West, LLC's joinder motion is  
22 also GRANTED.

23 It is further ordered, within ten (10) days of the date of  
24 this Order, Mr. Taylor must either (1) submit a statement of good  
25 cause for his failure to comply with the local rules, or (2) pay a  
26 sanction in the amount of \$150.00 to the Clerk of the Court.

27 IT IS SO ORDERED.

28 Dated: February 27, 2012

  
JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE