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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS WITTE,  
  
  Plaintiff,  
  
  v.  
  
WELLS FARGO HOME MORTGAGE;  
WACHOVIA MORTGAGE; WELLS  
FARGO BANK, NA,  
  
  Defendants.

No. 2:16-cv-691-KJM-EFB PS

ORDER

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) filed a request for judicial notice in conjunction with its pending motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 8-1. Wells Fargo seeks judicial notice of public records filed in the Sacramento County Recorder’s Office, court documents from the Sacramento County Superior Court, and letters from the Office of Thrift Supervision and Comptroller of the Currency. *Id.* However, as plaintiff has pointed out in his objections to the request, Wells Fargo has not submitted a foundational declaration attesting that it has submitted true and accurate copies of these public record documents nor has it cited to any official website where the records can be examined to determine that fact. Wells Fargo’s counsel states in the request that the documents submitted “are true and correct copies,” *id.* at 3-4, but no foundational declaration in support of that representation has been filed.

1 Plaintiff has asserted objections challenging the authenticity of the submitted documents,  
2 ECF No. 9 at 3, and it is Wells Fargo's burden to lay a proper foundation to support its request.  
3 In light of plaintiff's objections judicial notice is inappropriate absent a declaration certifying the  
4 authenticity of the documents. *See Rodriguez v. Wells Fargo Bank, N.A.*, 2011 WL 6304152, at  
5 \*2 (“ . . . Wells Fargo did not attach an affidavit certifying the authenticity of the documents or  
6 argue that such materials are self-authenticating.”).

7 Accordingly, Wells Fargo shall file, within 5 days of the date of this order, a declaration  
8 attesting to the authenticity of the submitted documents. Any further objection by plaintiff shall  
9 be filed within 5 days thereafter. Should Wells Fargo fail to file a declaration, its request for  
10 judicial notice will be denied.

11 Upon the filing of any declaration and objection, the matter will stand resubmitted.

12 DATED: February 2, 2017.

13 A handwritten signature in blue ink, reading "Edmund F. Brennan", with a horizontal line underneath the signature.

14 EDMUND F. BRENNAN  
15 UNITED STATES MAGISTRATE JUDGE  
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