



1 reenacted in section 2924.11(a) while subsection (g) was omitted from that reenactment. *See* Cal.  
2 Civ. Code § 2924.11 (2018). As of January 1, 2019, however, section 2924.11(a) was repealed  
3 and substantially reenacted in section 2923.6(c), which is identical to its 2017 version, section  
4 2923.6(c) (2017), except it now provides that any modification application must be submitted to  
5 the “servicer at least five business days before a scheduled foreclosure sale.” *Id.* ¶ 2923.6(c)  
6 (2019). The current version of section 2924.6 also restores, word-for-word, subsection (g)’s  
7 provision relieving servicers from their obligation to evaluate successive applications “unless  
8 there has been a material change in the borrower’s financial circumstances since the date of the  
9 borrower’s previous application and that change is documented by the borrower and submitted to  
10 the mortgage servicer.” *Id.* § 2923.6(g) (2019).

11           The complaint in this case was filed June 28, 2018. However, the relevant facts  
12 alleged in plaintiff’s complaint occurred prior to January 1, 2018, when the 2017 version of the  
13 statute was in effect. At the time of this order, the 2019 version of the statute is in effect. Under  
14 both the 2017 and the 2019 version of the statute, the magistrate judge’s analysis is correct.  
15 *See* Cal. Civ. Code § 2923.6(g) (2017 & 2019) (requiring servicer to evaluate applications in  
16 which material change in financial circumstances “is documented by the borrower and submitted  
17 to the mortgage servicer”).

18           Accordingly, IT IS HEREBY ORDERED that:

- 19           1. The findings and recommendations filed April 11, 2019 are adopted in full;
- 20           2. Defendants’ motion to dismiss the First Amended Complaint (ECF No. 38) is  
21           granted;
- 22           2. This action is dismissed with prejudice for failure to state a claim; and
- 23           3. The Clerk of Court shall close this case.

24 DATED: September 30, 2019.

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27 UNITED STATES DISTRICT JUDGE  
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