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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

LINDELL VAN DYKE, as trustee for
the VAN DYKE FAMILY TRUST,
Individually and on behalf of all others
similarly situated,

No. C 08-01962 JSW

Plaintiff,

v.

**ORDER VACATING ORDER
GRANTING STIPULATION FOR
CONSOLIDATION**

WELLS FARGO & CO. and WELLS FARGO
INVESTMENTS, LLC,

Defendants.

It has come to the Court's attention that the alleged stipulation filed by Plaintiff on December 9, 2008 was not procedurally proper and was not in fact a stipulation at all. Because defendants Wells Fargo & Co. and Wells Fargo Investments, LLC were not signatories to the stipulation, it is void and therefore vacated. *See* N.D. L.R. 7-12 (“[e]very stipulation requesting judicial action must be in writing signed by all affected parties or their counsel.”) Because, like the parties' actual stipulation relating the cases dated December 1, 2008, the alleged stipulation filed on December 9, 2008 appeared to have two signature blocks, the Court approved it. Upon more careful review, it appears that the Court was misled by Plaintiff and **HEREBY VACATES** the order granting the stipulation for consolidation dated December 9, 2008.¹ The cases are no longer consolidated.


¹ The Court finds that a hearing on Defendants' motion to vacate is not necessary and **VACATES** the proposed hearing date of February 20, 2009.

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Should Plaintiff seek to file a motion to consolidate the cases, all counsel for Plaintiff who were signatories to the filing dated December 9, 2008 shall file a separate declaration setting forth the reasons for failing to indicate that they had not received Defendants' counsel's approval for the filing of what Plaintiff has referred to as a stipulation to consolidate. (*See* Docket No. 43 also filed on December 9, 2008.) Failure to demonstrate good cause shall result in sanctions.

IT IS SO ORDERED.

Dated: January 8, 2009



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE