

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY DEBARTOLO,

No C 08-5553 VRW

Plaintiffs,

ORDER

v

BANK OF AMERICA N A,

Defendants.

_____ /

On April 16, 2009, the court granted a stay in this matter pending the resolution of Miller v Bank of America NT and SA, 46 Cal 4th 630 (2009) ("Miller"). Doc #26.

On June 1, 2009, the California Supreme Court issued its decision in Miller. The court concluded that Bank of America's practice of balancing customers' accounts by applying account credits against account debits does not violate California law. 46 Cal 4th at 638-44. The supreme court's decision became final on July 24, 2009, when the court issued its remittitur to the court of appeal. Doc #30, Exh C.

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Given that plaintiff's complaint challenges the same banking practices that the California supreme court has found to be legal, plaintiff is ORDERED to SHOW CAUSE in a writing not to exceed five pages why the court should not execute judgment for defendants. Any return to this order shall be filed on or before September 11, 2009.

IT IS SO ORDERED.



VAUGHN R WALKER
United States District Chief Judge