

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

TODD A. ROBERTSON,
Plaintiff,

No. C 10-2939 SI

**ORDER TRANSFERRING CASE TO
DISTRICT OF OREGON**

v.

WELLS FARGO HOME MORTGAGE,
Defendant.

Defendant’s motion to dismiss the complaint is scheduled for a hearing on September 17, 2010. Pursuant to Civil Local Rule 7-1(b), the Court determines that the matter is appropriate for resolution without oral argument and VACATES the hearing.

Pro se plaintiff Todd Robertson filed this action challenging a loan that he allegedly received for a property located at 5310 3rd Street, Tillamook, Oregon. Defendant Wells Fargo filed a motion to dismiss the complaint for improper venue and/or for failure to state a claim. Plaintiff’s opposition to the motion was due no later than August 27, 2010. Plaintiff did not file an opposition, but has made other filings.¹

The complaint alleges claims under federal and state law, and thus venue is governed by 28 U.S.C. § 1391(b). That section provides,

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action

¹ On August 30, 2010, plaintiff filed a certificate of service.

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may otherwise be brought.

28 U.S.C. § 1391(b). Wells Fargo asserts that its main office is in South Dakota, and that it is a citizen of that state. Accordingly, venue is proper in this district only if a “substantial part of property that is the subject of the action is situated” in this district. *Id.* § 1391(b)(2). The property that is the subject of this action is located in Oregon, and thus venue is proper in the District of Oregon.

Pursuant to 28 U.S.C. § 1406(a), the Court has discretion to transfer this case to the District of Oregon rather than dismissing it. Although defendant persuasively argues that the complaint does not state a claim and should be dismissed, in light of plaintiff’s *pro se* status the Court will exercise its discretion and TRANSFER this case to the District of Oregon. Defendant may renew its motion to dismiss in the Oregon court.

IT IS SO ORDERED.

Dated: September 13, 2010



SUSAN ILLSTON
United States District Judge