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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NICK MAKREAS,
Plaintiff,
v.
FIRST NATIONAL BANK OF
NORTHERN CALIFORNIA, et al.,
Defendants.

Case No. [11-cv-02234-JST](#)
**ORDER REGARDING THE
ADMISSIBILITY OF CERTAIN
EXHIBITS**

At the pretrial conference conducted on September 4, 2013, the Court took under submission the admissibility of certain exhibits. The Court now rules as follows concerning those exhibits:

1. The Court will reserve ruling on **Exhibits 78 through 80**. The Court lacks sufficient information regarding the relevance of these documents, and whether they were ever provided to the Defendants, to determine their admissibility now.
2. The Court has considered the Defendant’s objections to the admissibility of specific interrogatory responses contained in **Exhibit 81**, as those objections are set forth in the parties’ Joint Statement Regarding Use of Discovery Responses At Trial, ECF No. 177, and now rules as follows on the objections.
 - a. Response to Interrogatory Number 4 - Defendant’s relevance objection is overruled and the response may be admitted.
 - b. Response to Interrogatory Number 9 - Defendant’s relevance objection is sustained and the response is not admissible.
 - c. Response to Interrogatory Number 10 - Defendant’s relevance objection is sustained and the response is not admissible.
 - d. Response to Interrogatory Number 11 - Defendant’s relevance objection is

1 sustained and the response is not admissible.

2 e. Response to Interrogatory Number 12 - Defendant's relevance objection is
3 overruled and the response may be admitted.

4 f. Response to Interrogatory Number 13 - Defendant's relevance objection is
5 sustained and the response is not admissible.

6 g. Response to Interrogatory Number 14 - Defendant's relevance objection is
7 overruled and the response may be admitted.

8 h. Response to Interrogatory Number 15 - Defendant's relevance objection is
9 overruled and the response may be admitted.

10 i. Response to Interrogatory Number 16 - Defendant's relevance objection is
11 overruled and the response may be admitted.

12 j. Response to Interrogatory Number 17 - Defendant's relevance objection is
13 sustained and the response is not admissible.

14 k. Response to Interrogatory Number 18 - Defendant's relevance objection is
15 sustained and the response is not admissible.

16 l. Response to Interrogatory Number 19 - Defendant's relevance objection is
17 sustained and the response is not admissible.

18 m. Response to Interrogatory Number 20 - Defendant's relevance objection is
19 sustained and the response is not admissible.

20 n. Response to Interrogatory Number 21 - Defendant's relevance objection is
21 sustained and the response is not admissible.

22 o. None of the objections contained in any interrogatory response will be read
23 to the jury.

24 3. **Exhibits 128 through 130** are admissible if Plaintiff introduces testimony from
25 which the trier of fact can conclude that the documents were received by the Defendants.

26 4. **Exhibit 219** is a hearsay document and is not admissible.

27 5. **Exhibits 281 through 285** (there appears not to be an Exhibit 286) are admissible
28 if, and only if, the following two conditions are met:

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a. The plaintiff testifies, or other evidence is admitted, that an item of personal property that was identical, or substantially similar to, the item depicted in the exhibit, was converted by the Defendants; and

b. A sponsoring witness with personal knowledge of the contents of the Home Depot website authenticates the exhibit by testifying that (a) the witness accessed the Home Depot website on a particular date; (b) the exhibit is a true and correct copy of images from the Home Depot website as seen on that date. See, e.g., Perfect 10, Inc. v. Cybernet Ventures, Inc., 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002).

IT IS SO ORDERED.

Dated: December 6, 2013



JON S. TIGAR
United States District Judge