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

RAFAEL A. MARTINEZ,)	Case No. 11-4624 SC
)	
)	<u>ORDER</u>
Plaintiff,)	
)	
v.)	
)	
WELLS FARGO BANK, N.A., et al.)	
)	
Defendants.)	
)	
)	

On February 1, 2012, the Court ordered Plaintiff to show cause why this matter should not be dismissed for failure to prosecute after Plaintiff failed to respond to Defendant's motion to dismiss. ECF No. 19. On February 8, 2012, Plaintiff's counsel filed a declaration explaining that his failure to file an opposition was due to a mistake and that recent health problems have inhibited his ability to work. ECF No. 22. Plaintiff's counsel also stated that, with the Court's permission, he is prepared to file an opposition to Defendant's motion to dismiss immediately. Id.

While the Court does not condone such failure to comply with Court deadlines, it finds that the actions of Plaintiff's counsel do not warrant dismissal of the action at this time. Accordingly, the Court ORDERS Plaintiff to file his response to Defendant's

1 motion to dismiss within four calendar days of this Order. Failure
2 to do so will result in dismissal of this action for want of
3 prosecution and failure to comply with a Court order. Pursuant to
4 Civil Local Rule 7-3, Defendant may file a reply to the opposition
5 not more than seven days after the opposition has been filed.
6 Defendant's motion to dismiss is submitted for decision on the
7 papers, no hearing or oral argument is required. The Case
8 Management Conference scheduled for February 24, 2012 is hereby
9 continued to March 30, 2012. The parties are to file one Joint
10 Case Management Conference Statement seven days prior to the
11 conference.

12 The Court warns Plaintiff that failure to comply with Court
13 deadlines in the future may result in dismissal of this action.

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16 IT IS SO ORDERED.

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Dated: February 9, 2012



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UNITED STATES DISTRICT JUDGE

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