

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

RICHARD A. FRUSTERE,

No. C 11-6395 MMC

Plaintiff,

**ORDER GRANTING DEFENDANT’S
MOTION TO DISMISS**

v.

WELLS FARGO BANK, N.A., BRENDAN
MURPHY, individually and as trustee of the
MURPHY FAMILY TRUST, and DOES 1 TO
100,

Defendants.

Before the Court is defendant Wells Fargo Bank, N.A.’s (“Wells Fargo”) Motion to Dismiss, filed May 23, 2012. Plaintiff Richard Frustere (“Frustere”) has filed opposition, to which defendant has replied. The matter came on regularly for hearing July 13, 2012. Jason M. Richardson appeared on behalf of Wells Fargo. Mary Catherine Wiederhold appeared on behalf of Frustere.

Having read and considered the parties’ respective written submissions, and for the reasons stated on the record at the hearing, the Court hereby GRANTED, as follows:

1. Plaintiff’s Second Cause of Action (“Intentional Misrepresentation”) is dismissed with leave to amend.
2. Plaintiff’s Eighth Cause of Action (“Negligence”) is dismissed without leave to amend.

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3. Plaintiff's Third Amended Complaint, if any, shall be filed no later than August 17, 2012.

IT IS SO ORDERED.

Dated: July 13, 2012


MAXINE M. CHESNEY
United States District Judge