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9 Wells Fargo Bank Southwest, N.A., f/k/a Wachovia  
10 Mortgage, f/k/a World Savings Bank, FSB

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12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN FRANCISCO DIVISION**

15 JOSELITO MENDOZA MALUNAY, an  
16 individual; and EDNA CAMPOSANO  
17 MALUNAY, an individual,

18 Plaintiffs,

19 v.

20 WELLS FARGO BANK, N.A. SUCCESSOR  
21 BY MERGER TO WELLS FARGO BANK  
22 SOUTHWEST, NA F/K/A WACHOVIA  
23 MORTGAGE FSB F/K/A WORLD SAVINGS  
24 BANK, FSB, a National Bank; NDex WEST,  
25 L.L.C., a Delaware limited liability company;  
ALL PERSONS UNKNOWN, CLAIMING  
ANY LEGAL OR EQUITABLE RIGHT,  
TITLE, ESTATE, LIEN OR INTEREST IN  
THE PROPERTY DESCRIBED IN THE  
COMPLAINT ADVERSE TO PLAINTIFFS'  
TITLE, OR ANY CLOUD UPON  
PLAINTIFFS' TITLE THERETO; and DOES  
1-25, INCLUSIVE,

26 Defendants.

27 Case No. C 13-02864-EMC

28 [Assigned for all purposes to the Hon. Edward  
M. Chen]

**STIPULATION TO REMAND ACTION TO  
STATE COURT**

Date: August 22, 2013

Time: 1:30 p.m.

Ctrm.: 5—17th Floor

Complaint Filed: June 12, 2013  
Trial Date: None Set

## STIPULATION

Plaintiffs Joselito Mendoza Malunay and Edna Camposano Malunay ("Plaintiffs") and Defendant Wells Fargo Bank, N.A. ("Wells Fargo") (collectively, the "Parties") by, and through their respective counsel, jointly stipulate as follows:

WHEREAS, on June 12, 2013, the Plaintiffs filed their Complaint in San Mateo County Superior Court (the, "Action");

WHEREAS, on June 21, 2013, Wells Fargo removed this Action from San Mateo County Superior Court to this Court based on diversity;

WHEREAS, Defendant NDex West, LLC has not appeared in the Action;

WHEREAS, on July 1, 2013, Wells Fargo filed a Motion to Dismiss Plaintiffs' Complaint;

WHEREAS, on July 10, 2013, the Action was reassigned to the Honorable Charles R.

Breyer;

WHEREAS, on July 11, 2013, Wells Fargo re-filed its Motion to Dismiss Plaintiffs' Complaint;

WHEREAS, on July 12, 2013, the Action was reassigned to the Honorable Edward M. Chen;

WHEREAS, the hearing on Wells Fargo's Motion to Dismiss is scheduled for August 22, 2013;

WHEREAS, on July 18, 2013, Plaintiffs' filed a Motion to Remand the Action to state court;

WHEREAS, Plaintiffs contend that there is no diversity and therefore the Action was improperly removed;

WHEREAS, Wells Fargo contends that the Action was properly removed and that its removal is supported by almost all Northern District authority (*See Deleon v. Wells Fargo Bank, N.A.*, 729 F.Supp.2d 1119, 1123 (N.D. Cal. 2010); *Nguyen v. Wells Fargo Bank, N.A.*, 749 F.Supp.2d 1022, 1027 (N.D. Cal. 2010); *Atienza v. Wells Fargo Bank, N.A.*, 2011 U.S. Dist. LEXIS 1738, \*6 (N.D. Cal. Jan. 4, 2011); *Tse v. Wells Fargo Bank, N.A.*, 2011 U.S. Dist. LEXIS

1 6796, \*8 (N.D. Cal. Jan. 19, 2011); *Giordano v. Wachovia Mortgage, FSB*, 2010 U.S. Dist.  
2 LEXIS 136284, \*5 (N.D. Cal. Dec. 14, 2010); *Moreno v. Wells Fargo Bank, N.A.*, 2011 U.S. Dist.  
3 LEXIS 146195 (N.D. Cal. Dec. 21, 2011); *Sami v. Wells Fargo Bank*, 2012 U.S. Dist. LEXIS 38501  
4 (N.D. Cal. March 21, 2012); *Crane v. Wells Fargo Bank*, 2013 U.S. Dist. LEXIS 101469, \*6 (N.D. Cal.  
5 July 19, 2013); *Flores v. Wells Fargo Bank, N.A.*, 2012 U.S. Dist. LEXIS 32648, \*14-15 (N.D. Cal.  
6 March 12, 2013).);

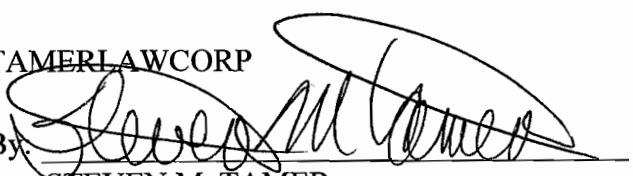
7 WHEREAS Wells Fargo nonetheless recognizes that this Court has considered the  
8 question of Wells Fargo's citizenship and determined that Wells Fargo is a citizen of South Dakota  
9 and California (See *Martinez v. Wells Fargo Bank, N.A.*, 2013 U.S. Dist. LEXIS 72075, \*40 (N.D.  
10 Cal. May 21, 2013).);

11 WHEREAS, the Parties wish to conserve judicial resources, as well as their own resources,  
12 by agreeing to remand the action;

13 NOW IT IS HEREBY STIPULATED AND AGREED by and between Wells Fargo and  
14 Plaintiffs, through their undersigned counsel of record, that the action be remanded to the  
15 San Mateo Superior Court.

16 IT IS SO STIPULATED.

17  
18 Dated: July 24, 2013

TAMERLAWCORP  
By:   
STEVEN M. TAMER  
Attorneys for Plaintiffs

21  
22 Dated: July 24, 2013

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

23  
24 By: /s/ Josi Kennon Swonetz  
25 JOSI KENNON SWONETZ  
26 Attorneys for Defendant  
27 WELL'S FARGO BANK, N.A.  
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## **ORDER**

Having reviewed the Joint Stipulation of Plaintiffs Joselito Mendoza Malunay and Edna Camposano Malunay and Defendant Wells Fargo Bank, N.A., and for good cause shown, the Court hereby orders the Action be remanded to the San Mateo Superior Court. All pending deadlines associated with Plaintiffs' Motion to Remand on one hand, and Wells Fargo's Motion to Dismiss on the other, are hereby vacated.

## IT IS SO ORDERED.

Dated: 7/25/13