

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

	)	Case No. C 13-4375
	)	
ARNAB SARKAR,	)	<u>ORDER DENYING MOTION TO REMAND</u>
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
WORLD SAVINGS FSB, F/K/A WELLS	)	
FARGO BANK, N.A.; THE BANK OF	)	
NEW YORK AS TRUSTEE FOR	)	
SECURITIZED TRUST WORLD SAVINGS	)	
BANK MORTGAGE PASS-THROUGH	)	
CERTIFICATES REMIC 28; and DOES	)	
1 through 100 inclusive,	)	
	)	
	)	
Defendants.	)	
	)	
	)	

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Defendant Wells Fargo Bank, N.A. ("Wells Fargo") timely removed this case from the Superior Court of the State of California for the County of Contra Costa on diversity grounds. ECF No. 1 ("Not. of Removal"). Plaintiff Arnab Sarkar ("Plaintiff") now moves to remand. ECF No. 15 ("Mot."). Plaintiff argues that complete diversity is lacking because both he and Wells Fargo are citizens of California. Plaintiff points out that California is Wells Fargo's principal place of business. Wells Fargo contends that it is a citizen of South Dakota, the location

1 of its main office, and no other state.

2 Wells Fargo's citizenship turns on 28 U.S.C. § 1348, which  
3 provides in relevant part: "All national banking associations  
4 shall, for the purposes of all other actions by or against them, be  
5 deemed citizens of the States in which they are respectively  
6 located." In Wachovia Bank v. Schmidt, 546 U.S. 303 (2006), the  
7 Supreme Court addressed the meaning of the word "located." For §  
8 1348 purposes, the court held that a national bank is a citizen of  
9 the state in which its main office is located, rather than a  
10 citizen of every state in which it maintains a branch. Id. at 307.

11 Since Schmidt was decided, a number of judges in this district  
12 have endorsed a dual-citizenship approach in the § 1348 context.  
13 See Martinez v. Wells Fargo Bank, 946 F. Supp. 2d 1010, 1024 (N.D.  
14 Cal. 2013) (Chen J.); Vargas v. Wells Fargo Bank N.A., 12-CV-02008-  
15 JST, 2013 WL 6235575, at \*8 (N.D. Cal. Dec. 2, 2013) (Tigar J.).  
16 These decisions hold that Schmidt did not overrule American Surety  
17 Co. v. Bank of California, 133 F.2d 160 (9th Cir. 1943), a 1943  
18 decision in which the Ninth Circuit held that a national banking  
19 association's citizenship is fixed by the location of its principal  
20 place of business. See Martinez, 946 F. Supp. 2d at 1016-17.  
21 Under this line of cases, a national banking association is located  
22 in either the state of its principal place of business or the state  
23 of its main office.

24 The dual-citizenship approach appears to be the minority view.  
25 Though the Ninth Circuit has yet to weigh in on whether American  
26 Surety is still good law, most of the judges in this district have  
27 held that, for the purposes of assessing diversity jurisdiction, a  
28 national banking association is located in only one state, that of

1 its main office. See, e.g., Meyer v. Wells Fargo Bank, N.A., C 13-  
2 03727 WHA, 2013 WL 6407516, at \*2 (N.D. Cal. Dec. 6, 2013) (Alsup  
3 J.); Lindberg v. Wells Fargo Bank N.A., C 13-0808 PJH, 2013 WL  
4 3457078, at \*1 (N.D. Cal. July 9, 2013) (Hamilton J.); Yong Chull  
5 Kim v. Wells Fargo Bank, N.A., 5:12-CV-02066-EJD, 2012 WL 3155577,  
6 at \*2-3 (N.D. Cal. Aug. 2, 2012) (Davila J.); Tse v. Wells Fargo  
7 Bank, N.A., C10-4441 TEH, 2011 WL 175520, at \*2-3 (N.D. Cal. Jan.  
8 19, 2011) (Henderson J.); Atienza v. Wells Fargo Bank, N.A., No.  
9 10-3457, 2011 U.S. Dist. LEXIS 1738, at \*3 (N.D. Cal. Jan. 4, 2011)  
10 (Seeborg J.); DeLeon v. Wells Fargo Bank, N.A., 729 F. Supp. 2d  
11 1119, 1123-24 (N.D. Cal. 2010) (Fogel J.). The Eighth Circuit --  
12 the only Circuit that has squarely addressed the issue since  
13 Schmidt -- has also rejected the dual-citizenship approach. Wells  
14 Fargo Bank, N.A. v. WMR e-PIN, LLC, 653 F.3d 702, 709 (8th Cir.  
15 2011).

16 The Court finds the reasoning of these cases persuasive and  
17 adopts the majority view that, for the purposes of § 348, a  
18 national bank is a citizen of only the state in which its main  
19 office is located. Accordingly, the Court finds that Wells Fargo  
20 is a citizen of South Dakota and that there exists complete  
21 diversity among the parties in the instant action. Plaintiff's  
22 motion to remand is DENIED.

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24 IT IS SO ORDERED.

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26 Dated: January 29, 2014

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UNITED STATES DISTRICT JUDGE