

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

3
 4 JACK A. NISSIM,

No. C 12-1201 CW

5 Plaintiff,

ORDER VACATING
 BRIEFING SCHEDULE

6 v.

ON WELL FARGO'S
 SECOND MOTION TO

7 WELLS FARGO BANK, N.A.; FIRST
 AMERICAN TITLE COMPANY; ATLANTIC
 8 BANCORP; and NICHOLAS DUDUM,

DISMISS THE
 AMENDED COMPLAINT

9 Defendants.

(Docket No. 39),
 MAINTAINING

BRIEFING SCHEDULE
 ON FIRST

10 _____/

AMERICAN'S MOTION
 TO DISMISS (Docket

No. 37), VACATING
 HEARINGS AND

ADDRESSING SERVICE
 UPON OTHER

DEFENDANTS

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 12 On March 9, 2012, Defendant Wells Fargo Bank, N.A. removed
 13 this action from the San Francisco Superior Court. Docket No. 1.

14 On April 6, 2012, Plaintiff Jack A. Nissim filed an amended
 15 complaint, adding as Defendants First American Title Company,
 16 Atlantic Bancorp and Nicholas Dudum. Docket No. 11. On April 20,
 17 2012, Wells Fargo moved to dismiss Plaintiff's amended complaint.
 18 Docket No. 17. This motion is fully briefed. See Docket Nos. 25
 19 and 27.

20 The Court previously vacated the hearing on Wells Fargo's
 21 motion to dismiss, noting that it would be reset if appropriate,
 22 and directed the parties to participate in Alternative Dispute
 23 Resolution (ADR) with the assistance of the court's ADR unit and
 24 report on their progress. Docket No. 31. On November 7, 2012,
 25 the mediator filed a certificate of mediation, noting that the
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1 mediation process was complete and that the parties had not
2 reached a settlement. Docket No. 36.

3 Because Wells Fargo's first motion to dismiss the amended
4 complaint has already been fully briefed and remains pending,
5 further briefing on Wells Fargo's second motion is not required at
6 this time. Thus, the Court VACATES the briefing schedule on Wells
7 Fargo's second motion. The Court MAINTAINS the briefing schedule
8 on First American's motion to dismiss. However, Plaintiff need
9 not repeat the same arguments already made in his opposition to
10 Wells Fargo's first motion. The Court will resolve the three
11 pending motions to dismiss on the papers and VACATES the hearings
12 currently set for January 17, 2013 at 2:00 p.m.

13 Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff
14 was required to serve Defendants Atlantic Bancorp and Nicholas
15 Dudum by August 6, 2012. Within seven days of the date of this
16 Order, Plaintiff shall file proof of timely service upon these two
17 Defendants or move for an extension of time for service and
18 provide good cause in support thereof. Failure to do so will
19 result in dismissal of his claims against these Defendants for
20 failure to prosecute.

21 IT IS SO ORDERED.

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23 Dated: 11/30/2012



CLAUDIA WILKEN
United States District Judge

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