

United States District Court
Northern District of California

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SUSAN AGUIAR *et al.*,
Plaintiffs,
vs.
WELLS FARGO BANK, N.A. *et al.*,
Defendants.

Case No.: 12-cv-03653 YGR
ORDER OF DISMISSAL FOR FAILURE TO PROSECUTE

On November 26, 2012, the Court dismissed Plaintiffs' complaint with leave to amend by no later than December 17, 2012. To date, Plaintiffs have not filed an Amended Complaint.

On December 18, 2012, Defendants filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 41 for failure to file an amended complaint. Plaintiffs' Opposition was due on or about January 2, 2013. To date, Plaintiffs have failed to oppose that Motion.

Plaintiffs also failed to cooperate in the preparation of a joint case management statement for the parties' initial case management conference, which is set for Monday, January 14, 2013.

Based on the foregoing, dismissal of this action for failure to prosecute is appropriate.

Accordingly, pursuant to Federal Rule of Civil Procedure 41, this action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

Therefore, Defendants' Motion to Dismiss (Dkt. No. 30) is **GRANTED IN PART** to the extent it seeks dismissal but **DENIED IN PART** to the extent it seeks dismissal with prejudice.

The Case Management Conference set for Monday, January 14, 2013 is **VACATED**.

The Motions to Appear by Telephone at the Case Management Conference (Dkt. Nos. 33 & 34) are **DENIED AS MOOT**.

This Order Terminates Dkt. Nos. 30, 33 & 34.

IT IS SO ORDERED.
Date: January 11, 2013


YVONNE GONZALEZ-ROGERS
UNITED STATES DISTRICT COURT JUDGE