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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PAMELA POSTLEWAITE,

Plaintiff,

v.

WELLS FARGO, et al.,

Defendants.

No. C 11-4563 PJH

**ORDER DENYING MOTION TO
RELATE CASES**

Defendant Wells Fargo Bank, N.A. ("Wells Fargo") has filed a motion to relate Postlewaite v. Wells Fargo Bank, C-12-4465, to the above-entitled action.

Under Civil Local Rule 3-12, a action is related to another when

- (1) The actions concern substantially the same parties, property, transaction or event; and
- (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.

Civ. L.R. 3-12(a).

The motion is DENIED. While the two actions do concern substantially the same parties, property, transaction or event, the court finds that there will not be an unduly burdensome duplication of labor and expense or conflicting results if the cases are not related. Case No. C-11-4563 was dismissed in June 2012 for failure to prosecute. Although Wells Fargo filed a motion to dismiss, and the court found that the complaint failed to state a claim, the claims against Wells Fargo were dismissed because the complaint had been filed by only one of the alleged property-owners, who subsequently also failed to prosecute.

By contrast, the complaint in Case No. C-12-4465 was filed by both of the former

1 property owners, and the plaintiffs assert different causes of action than the single plaintiff
2 did in Case No. C-11-4563. The assigned district judge has ruled on two motions to
3 dismiss, granting one with leave to amend, and denying the other because of the existence
4 disputed factual issues. Not only is there no risk of duplication or effort or conflicting results
5 if the cases are not related, it is relating the cases that would likely lead to duplication of
6 effort.

7 In addition, the court notes that Wells Fargo failed to “promptly” file its administrative
8 motion to relate cases. See Civ. L.R. 3-12(b). Wells Fargo removed this case on August
9 24, 2012, yet waited until July 23, 2013 to file its motion to relate cases, after the assigned
10 district judge had already ruled on the motions noted above.

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IT IS SO ORDERED.

Dated: August 19, 2013



PHYLLIS J. HAMILTON
United States District Judge