

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DARLENE BOWLAND,	)	Case No.: 11-cv-01667-LHK
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
VANDA KARAMEHMEDOVIC, an individual;	)	ORDER SETTING BRIEFING
NEWCAL FINANCIAL GROUP, INC., a	)	SCHEDULE
California corporation; WORLD SAVINGS	)	
BANK, FSB, a California corporation;	)	
WACHOVIA MORTGAGE, FSB, a North	)	
Carolina corporation; WELLS FARGO BANK,	)	
N.A., a corporation and DOES 1 through 100,	)	
inclusive,	)	
Defendants.	)	

Defendant Wells Fargo Bank N.A. (successor by merger to Wachovia Mortgage, FSB, formerly known as World Savings Bank, FSB) (“Wells Fargo”) has filed a motion to dismiss Plaintiff’s complaint. The motion is set for hearing on September 1, 2011 at 1:30 p.m. The Court hereby sets a briefing schedule for Defendant’s motion:

Opposition: due June 3, 2011

Reply: due June 10, 2011

If possible, the Court will resolve the motion to dismiss on the papers in advance of the hearing date. The case was removed from state court by Defendant Wells Fargo on the basis of a single federal claim (claim 1, for violation of the Truth in Lending Act or TILA, 15 U.S.C. § 1601 *et seq.*). It appears, based on the Complaint, that TILA rescission may be unavailable because the

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property has already been sold. *See* 15 U.S.C. § 1635 (“An obligor’s right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs first.”). It also appears that Plaintiff’s claim for TILA damages is barred by the one-year statute of limitations. 15 U.S.C. § 1640(e). Plaintiff’s Opposition should address these issues and whether she can allege facts to support equitable tolling of her TILA damages claim. If the Court finds that Plaintiff cannot state a federal claim, or if the Plaintiff voluntarily dismisses the TILA claim, the Court will dismiss the TILA claim and remand the remaining state claims.

**IT IS SO ORDERED.**

Dated: May 20, 2011

  
LUCY H. KOH  
United States District Judge