

1 2009 (“PTFA”), 123 Stat. 1632, 1660 (2009).

2
3 **II. DISCUSSION**

4 Defendant contends that Plaintiff’s Complaint fails to state a claim because there is
5 no private right of action under the PTFA. The Court agrees.

6 The statute itself does not provide for a private right of action. As for whether there
7 is an implied right of action, district courts within the Ninth Circuit have held that there is
8 nothing in the legislative history, statutory language, or statutory context that indicates that
9 Congress intended to confer a private right of action. See Nativi v. Deutsche Bank Nat’l
10 Trust Co., 2010 WL 2179885(N.D. Cal. May 26, 2010) (concluding that Congress intended
11 the PTFA to be used for protection in state court and holding that there was no private right
12 of action under the PTFA); Zalemba v. HSBC Bank, USA, Nat’l Ass’n, 2010 WL 3894577
13 (S.D. Cal. Oct. 1, 2010) (holding that based on the lack of “rights-creating” language in the
14 PTFA in addition to the statutory structure within which the PTFA is found, Congress did not
15 intend to create a private right of action under the PTFA). The Court agrees that there is no
16 basis upon which to imply that Congress intended to create a private right of action under the
17 PTFA.

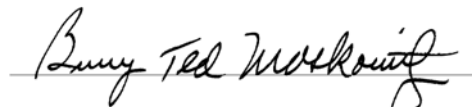
18 Accordingly, Plaintiff’s claim under the PTFA fails, and Plaintiff’s Complaint is
19 dismissed.

20
21 **III. CONCLUSION**

22 For the reasons discussed above, Defendant’s motion to dismiss is **GRANTED**. the
23 Clerk shall enter judgment dismissing the case.

24
25 **IT IS SO ORDERED.**

26 DATED: January 3, 2011

27 

28 Honorable Barry Ted Moskowitz
United States District Judge