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8 Attorneys for Defendant

9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12

13 WELLS FARGO BANK, N.A., and WELLS)
14 FARGO HOME MORTGAGE, INC.,)

15 Plaintiffs,)

16 vs.)

17 DEMETRIOS A. BOUTRIS, in his official)
18 capacity as Commissioner of the California)
19 Department of Corporations,)

20 Defendant.)
21)

Civil Action No. S-03-0157 GEB JFM
DEFENDANT’S NOTICE OF MOTION AND
MOTION FOR SUMMARY JUDGMENT OR
IN THE ALTERNATIVE PARTIAL
SUMMARY JUDGMENT
Hearing Date: May 5, 2003
Time: 9:00 a.m.
Location: Courtroom 10
Hearing Requested
[15 minutes each side]

22 TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

23 Please take notice that at 9:00 a.m. on May 5, 2003, before the Honorable Judge Garland E.
24 Burrell, Courtroom 10, located at 501 I Street, Sacramento, California 95814, Defendant, Demetrios
25 A. Boutris, in his official capacity as California Corporations Commissioner (“Commissioner”) will,
26 and hereby does, move the Court pursuant to Rule 56 of the Federal Rules of Civil Procedure for an
27 order granting summary judgment or in the alternative partial summary judgment.
28

This Motion is made on the grounds that there is no genuine issue as to any material fact and

1 that Defendant is entitled to judgment as a matter of law because the California Residential
2 Mortgage Lending Act and the California Finance Lenders Law are not preempted by the National
3 Bank Act, 12 U.S.C. section 21 *et seq.* or regulations adopted by the Office of the Comptroller of the
4 Currency pursuant to the Act, California Financial Code section 50204(o) and Civil Code section
5 2948.5 are not preempted by the Depository Institutions Deregulation and Monetary Control Act of
6 1980, 12 U.S.C. section 1735f-7a(a)(1), the revocation actions filed by the Commissioner were not
7 retaliatory, and this is not a proper action under 42 U.S.C. section 1983.

8 This Motion is based upon this Notice of Motion and Motion, the accompanying
9 Memorandum of Points and Authorities in Support of Summary Judgment, the Declaration of Ken
10 A. Nagashima, all pleadings and other papers on file in this action, and upon such other matters as
11 may be presented to the Court at the time of the hearing.

12 Dated: April 4, 2003

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