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ORDER

**Order Granting Wells Fargo Bank N.A.'S
Motion To Set Aside Default Judgment**

Type of Document

(Example: Declaration of Homestead, Quit Claim Deed, etc.)

Recording requested by:

Cynthia Alexander, Esq.

Return to: CYNTHIA ALEXANDER, ESQ.

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This page added to provide additional information required by NRS 111.312 Sections 1-2
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Alan T. Quinn
CLERK OF THE COURT

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Attorneys for Defendant Wells Fargo Bank, N.A.

DISTRICT COURT
CLARK COUNTY, NEVADA

16 JOSEPH NASCIMENTO, an individual,
17 Plaintiff,
18 vs.
19 WELLS FARGO BANK, NA and Does 1-
20 10,
21 Defendant.

CASE NO. A-10-622150-C
DEPT. XVII 26

**ORDER GRANTING WELLS FARGO
BANK, N.A.'S MOTION TO SET ASIDE
DEFAULT JUDGMENT**

22 Defendant Wells Fargo Bank, N.A.'s Motion to Set Aside Default Judgment on an Order
23 Shortening Time ("Motion"), coming on for oral argument November 15, 2010, at 8:30 a.m., with
24 appearances from Benjamin B. Childs for Plaintiff and Cynthia L. Alexander and Justin R.
25 Cochran for Defendant, considering Plaintiff's Opposition thereto and Defendant's Reply, taking
26 notice that the Court Certified its Intention to Set Aside the Default Judgment on January 6, 2011,
27 and the Nevada Supreme Court's Order remanding the appeal on May 12, 2011 to this Court for
28

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1 further proceedings consistent with its certification, and good cause showing, the Court decides as
2 follows:

3 The Motion is based upon, *inter alia*, Rule 60(c) of the Nevada Rules of Civil Procedure.
4 In the Motion, Wells Fargo asserts that service was improper and thus pursuant to Rule 60(c), the
5 Court should vacate its Judgment. This Court agrees.

6 Nevada Rule of Civil Procedure 4 requires that service upon an entity or association
7 registered to do business in Nevada shall be made "to the registered agent thereof." Wells Fargo
8 Bank, N.A. is registered with the Secretary of State and has appointed a registered agent in
9 Nevada. Plaintiff admits that service of the summons and complaint was made upon a local
10 branch manager here in Las Vegas, Nevada, rather than on Wells Fargo's registered agent. In
11 order for Wells Fargo to have been properly served pursuant to NRCP Rule 4, service of process
12 needed to be made on Wells Fargo's registered resident agent. Wells Fargo has brought this
13 motion in a timely manner after receiving notice of the default judgment, and it appears that
14 Wells Fargo has a meritorious defense to the claims contained in the Complaint.

15 As set forth in Nevada Rules of Civil Procedure, this Court may vacate a default judgment
16 when taken against a party "who was not personally served with summons and complaint"
17 NRCP 60(c). The record and oral argument demonstrate that Wells Fargo was not personally
18 served as envisioned under the Nevada Rules of Civil Procedure and timely sought relief from the
19 default judgment.

20 Accordingly,

21 **IT IS HEREBY ORDERED**, that Wells Fargo Bank, N.A.'s Motion to Set Aside Default
22 Judgment is granted;

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IT IS FURTHER ORDERED, that the Default entered on August 25, 2010, and the Default Judgment entered on September 1, 2010, is vacated.

IT IS SO ORDERED this 7 day of June, 2011.


DISTRICT COURT JUDGE

Submitted by:

SNELL & WILMER L.L.P.

By: 


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