

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

JS-6

Case No.	CV 10-5913 CAS (JEMx)	Date	November 16, 2010
Title	JACINTO GUTIERREZ V. CHEVY CHASE BANK, ET AL.		

Present: The Honorable CHRISTINA A. SNYDER

CATHERINE JEANG	Not Present	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
Not Present	Not Present	

Proceedings: (In Chambers): ORDER DISCHARGING ORDER TO SHOW CAUSE AND DISMISSING FOR LACK OF SUBJECT MATTER JURISDICTION

On August 9, 2010, plaintiff Jacinto Gutierrez filed the instant action against defendant Chevy Chase Bank, F.S.B. (“Chevy Chase”) in the United States District Court for the Central District of California. In the complaint, plaintiff alleges a claim for fraud and attempted foreclosure on a false contract. Although plaintiff asserts federal question jurisdiction, the complaint is devoid of any claim arising under federal law. On September 8, 2010, this Court ordered plaintiff to show cause why this case should not be dismissed for lack of subject matter jurisdiction. Response to the order to show cause was required no later than September 22, 2010. Plaintiff has not responded to the order to show cause.

The question of whether a claim arises under federal law, for purposes of 28 U.S.C. § 1331, must be determined by reference to the complaint. Franchise Tax Bd. v. Constr. Laborers Trust, 463 U.S. 1, 9-10 (1983). Invoking a federal issue or provision is not “a password opening federal courts to any state action embracing a point of federal law.” Grable & Sons Metal Prods., Inc. V. Darue Eng’g & Mfg., 545 U.S. 308, 314 (2005). Instead, a claim “arises under” the laws of the United States, for purposes of construing 28 U.S.C. § 1331, only if “a well-pleaded complaint establishes either that (1) federal law creates the cause of action or that (2) the plaintiff’s right to relief necessarily depends on resolution of a substantial question of federal law.” Franchise Tax Bd., 463 U.S. at 27-28. As to the second prong, the issue turns on whether the complaint includes “allegations of federal law that are essential to the establishment of the claim.” Lippit v. Raymond James Fin. Servs., Inc., 340 F.3d 1033, 1041 (9th Cir. 2003).

