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8 **IN THE UNITED STATES DISTRICT COURT FOR THE**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 **RODNEY CRITTENDEN,**

11 **Plaintiff,**

12 **v.**

13 **HOMEQ SERVICING; BARCLAYS**
14 **BANK, PLC, EQUIFIRST**
15 **CORPORATION, and DOES 1 through**
16 **100, inclusive,**

17 **Defendants.**
18
19

1:09-CV-950 AWI DLB

ORDER VACATING
OCTOBER 5, 2009, HEARING
DATE AND DIRECTING THE
CLERK OF THE COURT TO
RANDOMLY REASSIGN THIS
ACTION TO ANOTHER
DISTRICT COURT JUDGE

20 Currently pending before the Court is a Rule 12(b)(6) motion that is set for hearing on
21 October 5, 2009.

22 Under 28 U.S.C. § 455, a judge has an affirmative duty to recuse himself “in any
23 proceeding in which his impartiality might reasonably be questioned.” Liteky v. United States,
24 510 U.S. 540, 548 (1994). If “a reasonable person with knowledge of all the facts would
25 conclude that the judge’s impartiality might reasonably be questioned,” then recusal is
26 appropriate. See United States v. Hernandez, 109 F.3d 1450, 1453 (9th Cir. 1997); United States
27 v. Studley, 783 F.2d 934, 939 (9th Cir. 1986). In light of this standard, the undersigned believes
28 that recusal and reassignment is necessary.

Accordingly, IT IS HEREBY ORDERED that:

1. The October 5, 2009, hearing is VACATED;
2. The Clerk of the Court is DIRECTED to randomly reassign this action to another District Court Judge; and
3. The parties shall re-notice the motion to dismiss with the randomly assigned District Judge.

IT IS SO ORDERED.

Dated: September 15, 2009

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE