

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

RODNEY CRITTENDEN, ) 1:09-CV-950 AWI DLB  
Plaintiff, )  
v. )  
HOMEQ SERVICING; BARCLAYS ) ORDER VACATING  
BANK, PLC, EQUIFIRST ) OCTOBER 5, 2009, HEARING  
CORPORATION, and DOES 1 through ) DATE AND DIRECTING THE  
100, inclusive, ) CLERK OF THE COURT TO  
Defendants. ) RANDOMLY REASSIGN THIS  
 ) ACTION TO ANOTHER  
 ) DISTRICT COURT JUDGE  
 )  
 )

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

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