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

SILVIA T. PEREZ,

CASE NO. CV F 10-1082 LJO DLB

Plaintiffs,

**ORDER TO REMAND ACTION**

vs.

DEPARTMENT OF THE TREASURY  
and CALIFORNIA UNEMPLOYMENT  
INSURANCE APPEALS BOARD,

Defendants.

\_\_\_\_\_ /

Defendant Department of the Treasury, an agency of the United States of America (“government”) removed this action to this Court on June 15, 2010, and moved to dismiss a Petition for Writ of Mandate filed by plaintiff Silvia T. Perez (“Ms. Perez”). Ms. Perez’s petition seeks a writ to direct California Administrative Law Judge James Donabed (“ALJ”) and the California Unemployment Insurance Board, Fresno Office of Appeals, Fresno County (“CUIB”), to allow unemployment benefits based on her past employment with the Internal Revenue Service (“IRS”).

In a July 29, 2010 order, this Court dismissed the government from this action and found that it lacked jurisdiction over the remainder of Ms. Perez’s claims:

In the notice of removal, the government asserted that this Court has jurisdiction over this action pursuant to two statutes. First, the government relied on 28 U.S.C. §1346(b)(1), which confers on federal courts exclusive jurisdiction over civil actions against the United States and its agencies. Second, the government asserted that this Court has jurisdiction pursuant to 28 U.S.C. §1361, which considers federal jurisdiction

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over actions that seek to compel by mandamus action of a government officer or employee. Because Ms. Perez has failed to state a claim against the government, and does not seek to compel federal government action, this Court finds that it lacks jurisdiction over this action.

Based on these considerations, the Court ordered the government to show cause why this Court should not remand this action to the State of California Superior Court, County of Fresno. In response to this Court's show cause order, the government filed a statement of non-opposition to remand.

**ORDER**

For good cause appearing, this Court REMANDS this action to the Fresno County Superior Court and DIRECTS the clerk of court to remand this action.

IT IS SO ORDERED.

**Dated:** August 4, 2010

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE