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

KIM GARDNER,

Plaintiff,

v.

AMERICAN BROKERS CONDUIT;
FREDDIE MAC; FINANCIAL TITLE
COMPANY; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; CAL-
WESTERN RECONVEYANCE CORP.;
and all persons claiming any legal or
equitable right, title, lien or interest
in the property,

Defendants.

) 1:12-cv-00555-AWI-DLB

) ORDER TO SHOW CAUSE RE:
) DISMISSAL OF ACTION

The Court refers the parties to the order issued July 16, 2012 for a partial chronology of the proceedings. *Gardner v. American Brokers Conduit*, slip copy, 2012 WL 2923495 (E.D.Cal. 2012). On February 17, 2012, plaintiff Kim Gardner (“Plaintiff”) filed her complaint to quiet title in Fresno County Superior Court against defendants American Brokers Conduit, Freddie Mac, Financial Title Company, Mortgage Electronic Registration Systems, Inc., Cal-Western Reconveyance Corp. and all persons claiming any legal or equitable right, title, lien or interest in the property located at 6427 North Cornelia Avenue, Fresno, CA 93722. On April 6, 2012, defendant Federal Home Loan Mortgage Corporation (“FHLMC,” erroneously sued as Freddie Mac) removed the action to this

1 Court pursuant to 28 U.S.C. §§ 1331 and 1442 and 12 U.S.C. § 1452(f).

2 On June 8, 2012, FHLMC filed a motion to dismiss the complaint pursuant to Federal Rule
3 of Civil Procedure 12(b)(6). Plaintiff did not file a written opposition to FHLMC's motion to
4 dismiss. On July 16, 2012, the Court granted the motion to dismiss and directed Plaintiff to file an
5 amended complaint within thirty days of the July 17, 2012 entry of the order. *Gardner, supra*, 2012
6 WL 2923495 at *3. No amended complaint was filed by Plaintiff within the time allotted.

7 "If the plaintiff fails to . . . comply with . . . a court order, a defendant may move to dismiss
8 the action or any claim against it." Fed. R. Civ. P. 41(b); *see Ferdik v. Bonzelet*, 963 F.2d 1258,
9 1260-61 (9th Cir. 1992) (listing factors for court to consider in determining whether to dismiss a case
10 for failure to comply with a court order). Where a plaintiff has failed to comply with a court's
11 orders, the court may also dismiss an action pursuant to Rule 41(b) *sua sponte*. *Hells Canyon*
12 *Preservation Council v. United States Forest Service*, 403 F.3d 683, 689 (9th Cir. 2005).

13 Accordingly, Plaintiff is ORDERED to show cause in writing by 4:00 p.m. on Thursday,
14 September 13, 2012, why no amended complaint has been filed and why this action should not be
15 dismissed for failure to comply with the Court's July 16, 2012 order. Failure to show cause or
16 otherwise respond to this order shall result in a dismissal of the action with prejudice as against
17 FHLMC. (Because the other named defendants have not filed substantive motions to dismiss and
18 were not parties to FHLMC's Rule 12 motion, the complaint remains operative against them.)

19 IT IS SO ORDERED.

20 Dated: August 22, 2012

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23 CHIEF UNITED STATES DISTRICT JUDGE
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