

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

On July 7, 2009, Plaintiff Dolores Prieto ("Prieto") filed a motion in which she seeks to transfer venue of this case to the Central District of California ("Central District"), where it appears an earlier-filed, identical putative class action is pending. The pending action, Williams v. U.S. Bancorp, filed on December 1, 2008, "seeks to certify a class of former and current U.S. Bank Branch Managers," which is exactly what Prieto seeks in this action, filed on April 1, 2009. (Pl.'s Mot. 2:5-8.) Prieto and the Williams Plaintiff

\* This matter was determined to be suitable for decision without oral argument. E.D. Cal. R. 78-230(h).

1 both "allege that Defendant misclassified putative class members as  
2 exempt employees, and now owe back wages, penalties, and interest for  
3 violations under the California Labor Code and the California Business  
4 and Professions Code." (Pl.'s Mot. 2:8-10.) Since the Williams case  
5 was filed before Prieto filed her case and the Williams Plaintiff  
6 seeks the same class certification that Prieto seeks, it is unclear  
7 why Prieto's case is necessary in light of the pendency of the  
8 Williams case. Since this issue has not been discussed, the motion to  
9 transfer venue is denied.

10 The parties shall explain in a brief, filed within ten days  
11 of the date on which this order is filed, why it is necessary for this  
12 action to continue pending in light of the earlier filed action in the  
13 Central District, and why this action should not be dismissed under  
14 the "first to file" rule, a recognized doctrine of federal comity that  
15 allows a district court to "decline jurisdiction over a matter if a  
16 complaint [involving the same parties and issues] has already been  
17 filed in another district." Church of Scientology of California v.  
18 United States Department of the Army, 611 F.2d 738, 749 (9th Cir.  
19 1979).

20 Dated: September 9, 2009

21   
22 Garland E. Burrell, Jr.  
23 United States District Judge