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5 Attorneys for Defendant FEDERAL DEPOSIT INSURANCE  
 CORPORATION, as RECEIVER for INDYMAC FEDERAL  
 6 BANK, FSB

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 8 UNITED STATES DISTRICT COURT  
 9 EASTERN DISTRICT OF CALIFORNIA  
 10 SACRAMENTO DIVISION

11 CONG M. TRAN AND PHUONG HUYNH,

12 Plaintiffs,

13 v.

14 INDYMAC FEDERAL BANK;  
 15 MORTGAGEIT, INC.; NDEX WEST, LLC;  
 16 MORTGAGE ELECTRONIC  
 REGISTRATION SYSTEMS, INC.; GLOBAL  
 EQUITY LENDING; JANYCE PHAM; and  
 17 DOES 1-20 inclusive,

18 Defendants.

CASE NO. 2:10-CV-00078-LKK-EFB

**SUBSTITUTION OF FEDERAL DEPOSIT  
 INSURANCE CORPORATION AS RECEIVER FOR  
 INDYMAC FEDERAL BANK, FSB; ORDER**

Dept: Courtroom 4  
 Judge: Hon. Lawrence K. Karlton

JMBM  
 Jeffer Mangels  
 Butler & Marmaro LLP

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 20 The Federal Deposit Insurance Corporation, as Receiver for IndyMac Federal Bank  
 21 (“FDIC as Receiver”), states as follows:

22 1. On or about July 25, 2008, the Office of the Comptroller of the Currency  
 23 closed IndyMac Federal Bank, and the Federal Deposit Insurance Corporation (FDIC) was named  
 24 receiver. The FDIC as Receiver accepted the appointment that same day.

25 2. As a result of this appointment, the FDIC has succeeded to “all rights, titles,  
 26 powers, and privileges” of the failed institution and may “take over the assets of and operate” the  
 27 failed institution with all the powers thereof. 12 U.S.C. §§1821(d)(2)(A)(i) and 1821(d)(2)(B)(i).  
 28 This includes the resolution of outstanding claims against the institution in receivership. 12 U.S.C.

1 §1821(d)(3). Accordingly, the FDIC as Receiver is the party against which the claims sought by the  
2 plaintiffs Cong M. Tran And Phuong Huynh must be asserted.

3 3. Because the FDIC as Receiver is the proper defendant with regard to the  
4 plaintiffs' claims, the FDIC as Receiver should be substituted into this action in place of defendant  
5 IndyMac Federal Bank.

6 4. The Financial Institutions Reform, Recovery and Enforcement Act of 1989  
7 ("FIRREA") provides, in pertinent part: "After appointment of a . . . receiver for an insured  
8 depository institution, the . . . receiver may request a stay for a period not to exceed – \* \* \* (ii) 90  
9 days, in the case of any receiver, \* \* \* in any judicial action or proceeding to which such institution  
10 is or becomes a party." 12 U.S.C. §1821(d)(12)(A). This 90-day stay is mandatory: "Upon receipt  
11 of a request by any . . . receiver pursuant to [12 U.S.C. §1821(d)(12)(A)] for a stay of any judicial  
12 action or proceeding in any court with jurisdiction of such action or proceeding, *the Court shall*  
13 *grant such stay as to all parties.*" 12 U.S.C. §1821(d)(12)(B) (italics added).

14 5. Thus, upon entry of an order substituting in the FDIC as Receiver for the  
15 current defendant, IndyMac Federal Bank, this matter should be stayed for 90 days.

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DATED: March 24, 2010

JEFFER, MANGELS, BUTLER & MARMARO LLP  
MICHAEL J. HASSEN  
CHRISTOPHER H. DOYLE

By: /s/ Michael J. Hassen  
MICHAEL J. HASSEN  
Attorneys for Defendant FEDERAL DEPOSIT  
INSURANCE CORPORATION, AS RECEIVER FOR  
INDYMAC FEDERAL BANK, FSB

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**ORDER**

Based on the foregoing Substitution and good cause appearing, it is hereby


ORDERED:

(1) that the Federal Deposit Insurance Corporation, as Receiver for Indymac Federal Bank (“FDIC as Receiver”), is substituted in for named defendant Indymac Federal Bank, and

(2) that all proceedings in this matter are stayed for ninety (90) days from the date of this order.

IT IS SO ORDERED.

Dated: March 29, 2010

  
LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT

JMBM  
Jeffer Mangels  
Butler & Marmaro LLP