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UNITED STATES DISTRICT COURT FOR

THE NORTHERN DISTRICT OF CALIFORNIA

CARRIE RIZZOTTI, Plaintiff, v. CENTRAL PACIFIC MORTGAGE COMPANY LONG TERM DISABILITY PLAN, Defendant.	Case No.: C 08-2749 WDB **EX-PARTE APPLICATION TO DISMISS PLAINTIFF CENTRAL PACIFIC MORTGAGE COMPANY LONG TERM DISABILITY PLAN; REQUEST TO FILE A FIRST AMENDED COMPLAINT; AND SET ASIDE DEFAULT AND [PROPOSED] ORDER**

WHEREAS Plaintiff filed, served and subsequently obtained a default against Defendant, Central Pacific Mortgage Company Long Term Disability Plan, and served said default upon Prudential and counsel known to represent Prudential in other matters.

WHEREAS Prudential subsequently contacted Plaintiff through her counsel of record and notified her that Prudential would defend this matter on behalf of Defendant Central Pacific Mortgage Long Term Disability Plan, accept service of process and be liable for any monies owed Plaintiff, if Plaintiff amended its complaint to name Prudential as the Defendant and dismiss Defendant Central Pacific Mortgage Company Long Term Disability Plan.

THEREFORE, the Plaintiff requests that the Court set aside the Default.

THEREFORE, Plaintiff hereby requests the Court dismiss defendant Central Pacific Mortgage Company Long Term Disability Plan.

Dockets.Justia.com

THEREFORE, Plaintiff requests permission from the Court of file a First Amended Complaint, attached hereto.

THEREFORE, all other matters shall remain as set forth by this Court.

Dated: November 5, 2008 /s/ Thornton Davidson
THORNTON DAVIDSON
Attorney for Plaintiff,
CARRIE RIZZOTTI

GOOD CAUSE APPEARING, IT IS SO ORDERED THAT:

1. **Defendant Central Pacific Mortgage Company Long Term Disability Plan is hereby dismissed as a defendant in this matter;**

2. **Plaintiff is granted leave to file at proposed First Amended Complaint; and**

3. **Default is hereby set aside.**

Dated: November 5, 2008

HONORABLE WAYNE D. BRAZIL