1 2 3 IN THE UNITED STATES DISTRICT COURT 4 5 FOR THE NORTHERN DISTRICT OF CALIFORNIA 6 7 HACIENDA MANAGEMENT, S. DE R.L. Case No. 12-0395 SC ) DE C.V., 8 ORDER REQUIRING SUPPLEMENTAL BRIEFING 9 Plaintiff, 10 v. 11 STARWOOD CAPITAL GROUP GLOBAL I LLC, et al., 12 13 Defendants. 14

15 Plaintiff brings the instant action asserting various claims 16 sounding in tort. ECF No. 1. Defendants now move to dismiss on 17 the ground that Plaintiff's claims are barred by res judicata 18 because Plaintiff brought similar contract claims in earlier 19 arbitration proceedings. ECF No. 22 ("MTD"). Defendants 20 specifically point to an arbitration award that was confirmed by 21 the Supreme Court of the State of New York. See ECF No. 23-1 22 ("RJN") Ex. A ("NY Judgment").

Both Plaintiff and Defendants contend that the Court must apply California law to determine the res judicata effect of the New York Judgment. MTD at 10; ECF No. 26 ("Opp'n") at 3. It is unclear that this is the correct approach. Ninth Circuit case law suggests that the Court "must accept the [res judicata] rules chosen by the State from which the [first] judgment is taken." <u>Noel v. Hall</u>, 341 F.3d 1148, 1166 (9th Cir. 2003) (quoting <u>Kremer</u>
<u>v. Chem. Constr. Corp.</u>, 456 U.S. 461, 482 (1982)). In other words,
it appears that New York law should apply to determine the
preclusive effect of the New York arbitration cited by Defendants.

Accordingly, the Court ORDERS the parties to submit supplemental briefing concerning what law the Court should apply to determine the claim preclusive effect of the New York Judgment and how that law bears on the outcome of the instant motion. The supplemental briefs shall be no longer than ten (10) pages and shall be filed with the Court within fourteen (14) days of this Order. Response briefs are neither required nor permitted.

IT IS SO ORDERED.

Dated: May 30, 2012

UNITED STATES DISTRICT JUDGE