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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

9 JUDITH H. IAM,

10 Plaintiff,

11 v.

12 WASHINGTON MUTUAL BANK, F.A.; JP
13 MORGAN CHASE BANK, N.A.; CHASE
14 HOME FINANCE; CALIFORNIA
15 RECONVEYANCE COMPANY;
16 FIDELITY NATIONAL TITLE
COMPANY; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS; R.K.
ARNOLD; and Does 1-20,

17 Defendants.

Case No. 12-cv-4106 NC

**ORDER TO SHOW CAUSE RE
SUBJECT MATTER
JURISDICTION**

Re: Dkt. No. 1

18 The Court issues this order sua sponte to address concerns regarding the issue of
19 subject matter jurisdiction. Plaintiff Judith Iam brings this action against Washington
20 Mutual, JP Morgan Chase Bank, California Reconveyance Company, Fidelity National
21 Title Company, Mortgage Electronic Registration Systems, and individual R.K. Arnold,
22 President and CEO of Mortgage Electronic Registration Systems, for declaratory relief,
23 accounting, breach of implied covenant of good faith and fair dealing, breach of fiduciary
24 duty, unjust enrichment, unconscionability, illegal foreclosure, bad faith and unclean
25 hands, and to quiet title. Compl., Dkt. No. 1.

26 “Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins.*
27 *Co. Of Am.*, 511 U.S. 375, 377 (1994). “A federal court is presumed to lack jurisdiction
28 in a particular case unless the contrary affirmatively appears.” *Stock West, Inc. v.*

1 *Confederated Tribes of the Colville Reservation*, 873 F.2d 1221, 1225 (9th Cir. 1989).
2 The party seeking to invoke the court’s jurisdiction bears the burden of establishing
3 grounds for the exercise of federal jurisdiction. *Scott v. Breeland*, 792 F.2d 925, 927 (9th
4 Cir. 1986). Even if no party challenges subject matter jurisdiction, the court has a duty to
5 raise the issue sua sponte. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

6 Under 28 U.S.C. § 1331, district courts have original jurisdiction over “all civil
7 actions arising under the Constitution, laws or treaties of the United States.” Under 28
8 U.S.C. § 1332(a), a district court has original jurisdiction over civil actions where the suit
9 is between citizens of different states and the amount in controversy, exclusive of interest
10 and costs, exceeds \$75,00.00.

11 Here, the complaint fails to assert a federal question and consists of state law
12 claims alone. *See Gully v. First Nat’l Bank in Meridian*, 299 U.S. 109, 112 (1936) (For
13 federal question jurisdiction to attach, “a right or immunity created by the Constitution or
14 laws of the United States must be an element, and an essential one, of the plaintiff’s cause
15 of action.”). While the complaint states that the source of federal jurisdiction exists under
16 28 U.S.C. § 1331 and references federal statutes, including the Real Estate Settlement
17 Practices Act (RESPA) and the Truth in Lending Act (TILA), no federal causes of action
18 are asserted. *See Merrell Dow Pharmaceuticals v. Thompson*, 478 U.S. 804, 813 (1986)
19 (“the mere presence of a federal issue in a state cause of action does not automatically
20 confer federal-question jurisdiction.”).

21 The complaint also fails to allege the citizenship of any named defendant. Iam
22 instead asserts that defendants are “registered with numerous state agencies and are
23 incorporated outside of California.” Compl. at 1. Iam fails to specifically allege the state
24 of incorporation and the state where each defendant corporation has its principal place of
25 business; the state of citizenship for the national banking association defendant; or the
26 citizenship of individual defendant Arnold.

27 Because the plaintiff bears the burden of setting forth jurisdictional facts, Iam must
28 show cause in writing on or before August 31, 2012, why this case should not be

1 dismissed for lack of subject matter jurisdiction. Iams' response must properly allege the
2 source of federal subject matter jurisdiction: federal question and/or diversity. If
3 invoking federal jurisdiction on the basis of diversity, Iam must identify the citizenship of
4 defendants Washington Mutual, JP Morgan Chase Bank, California Reconveyance
5 Company, Fidelity National Title Company, Mortgage Electronic Registration Systems,
6 and individual R.K. Arnold. Also, Iam must provide factual allegations to support her
7 assertion that the amount in controversy is \$1,100,000. *See Christensen v. Northwest*
8 *Airlines, Inc.*, 633 F.2d 529, 530-31 (9th Cir. 1980) (finding lack of subject matter
9 jurisdiction where plaintiff's tort claim could not sustain a judgment over the
10 jurisdictional amount).

11 Finally, in light of her pro se status, plaintiff may wish to seek assistance from the
12 Legal Help Center, a free service of the Volunteer Legal Services Program, by calling
13 415.782.9000 x8657 or signing up for an appointment on the 15th floor of the
14 Courthouse, Room 2796. At the Legal Help Center, plaintiff may speak with an attorney
15 who may be able to provide basic legal help, but not legal representation. The Court also
16 urges plaintiff to obtain a copy of the Pro Se Handbook, available free of charge from the
17 Court's website (www.cand.uscourts.gov) or in the Clerk's Office on the 16th Floor, 450
18 Golden Gate Avenue, San Francisco, CA.

19 IT IS SO ORDERED.

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21 DATED: August 7, 2012


NATHANAEL M. COUSINS
United States Magistrate Judge