

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Plaintiff,

v.

DORIS JAIME, et al.,

Defendants.

No. C 12-04496 JSW

**ORDER REGARDING REPORT
AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Donna M. Rye’s Report and Recommendation (“Report”) regarding Defendants’ application to proceed *in forma pauperis* and to remand this action. The time for filing objections has passed, and there have been no objections filed thereto. With respect to the recommendation to remand this action, the Court finds the Report correct, well-reasoned and thorough, and adopts it in every respect. Accordingly, this matter is REMANDED to the Superior Court of the State of California for the County of Yolo. The Clerk is directed to remand this action forthwith.

However, the Court does not adopt the recommendation with respect to the *in forma pauperis* applications pursuant to 28 U.S.C. § 1915 (“IFP”). Despite the finding that Defendants meet the economic eligibility requirements, the district court may deny IFP status if federal subject matter jurisdiction is lacking or if the complaint is frivolous. 28 U.S.C. § 1915(e)(2)(B). “[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant ... to the district court

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

of the United States for the district and division embracing the place where such action is pending.” *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 7-8 (1983) (citation omitted); *see also* 28 U.S.C. § 1441. Because, as noted above, the Court lacks federal subject matter jurisdiction, the Court denies the IFP application.

IT IS SO ORDERED.

Dated: October 22, 2012



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Case Number: CV12-04496 JSW

Plaintiff,

CERTIFICATE OF SERVICE

v.

DORIS JAIME et al,


Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 22, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Amanda Franco
Cesar Franco
1834 Hardy Drive
Woodland, CA 95776

Dated: October 22, 2012


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk