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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

JESUS AGUIRRE,

Plaintiff,

No. C 08-CV-02928 SBA

ORDER

v.

CITY & COUNTY OF SAN
FRANCISCO,

Defendant.

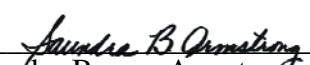
On August 15, 2008, defendant filed a second motion to dismiss [Docket No. 17] in which it indicated plaintiff already prosecuted this matter before Judge Hamilton in 2004. *See* Docket No. 17 at 2-3. Pursuant to Civil Local Rule 3-12(b):

Whenever a party knows or learns that an action, filed in or removed to this district is (or the party believes that the action may be) related to an action which is or was pending in this District as defined in Civil L.R. 3-12(a), the party must promptly file in the earliest-filed case an Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11.

Accordingly, defendant is ORDERED to comply with this rule within five days of the date of this Order. Defendant is also ORDERED to either withdraw its first motion to dismiss [Docket No. 12] or explain why it should not withdraw this motion. The hearing on defendant's second motion to dismiss [Docket No. 17], set for September 30, 2008 at 1:00 p.m., is VACATED.

IT IS SO ORDERED.

9/2/08



Sandra Brown Armstrong
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

et al,

 Plaintiff,

v.
CITY & COUNTY OF SAN FRANCISCO et al,

 Defendant.

Case Number: CV08-02928 SBA
CERTIFICATE OF SERVICE

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 September 3, 2008, 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.

Jesus Aguirre
26 Lessing Street
San Francisco, CA 94112

Dated: September 3, 2008

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk