

1  
2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 OAKLAND DIVISION  
5

6 LAURA AGUILERA,  
7 Plaintiff,

8 vs.

9 HILLTOP LENDING CORP.; THANH  
10 NGUYEN; ROSENDO FLORES; IRES CO.;  
11 AURORA LOAN SERVICES; LLC; CAL-  
12 WESTERN RECONVEYANCE CORP.,  
13 Defendants.

Case No: C 10-0184 SBA

**ORDER**

14 Plaintiff Laura Aguilera filed the instant mortgage fraud action against Defendants  
15 Aurora Loan Services LLC (“Aurora”), Hilltop Lending Corporation, Thanh Nguyen, Rosendo  
16 Flores, Ires Company and Cal-Western Reconveyance Corporation in Alameda County  
17 Superior Court on December 29, 2009. On January 14, 2010, Aurora removed the action to  
18 this Court, and the matter was assigned to Magistrate Judge James Larson. On January 20,  
19 2010, Plaintiff filed a motion for remand, which she noticed for hearing before Magistrate  
20 Judge Larson for March 18, 2010. Docket 4. On February 25, 2010, Aurora filed a motion to  
21 dismiss, which it noticed for hearing on April 7, 2010. Docket 8.

22 On March 11, 2010, Magistrate Judge Larson sent the parties a letter instructing them to  
23 specify whether they were willing to consent to the jurisdiction of a magistrate judge or  
24 whether either of them desired to proceed before a district judge. Docket 10. On March 12,  
25 2010, Aurora filed a consent to proceed before a magistrate judge. Docket 11. Plaintiff,  
26 however, did not respond to Magistrate Judge Larson’s letter. As such, on March 31, 2010, the  
27 matter was reassigned to this Court. Docket 14. The Court’s reassignment notice advised the  
28 parties that all previously pending dates have been vacated. On April 1, 2010, Aurora

1 renoticed its motion to dismiss on this Court's calendar. Plaintiff did not renote her motion to  
2 remand; however, she has not withdrawn such motion and it remains pending on the docket.

3 At this juncture, it is unclear whether this case should proceed before this Court or  
4 before a magistrate judge. Although Aurora previously consented to having all further  
5 proceedings before a magistrate judge, Plaintiff has not confirmed her position on the matter.  
6 Indeed, the fact that Plaintiff previously noticed her motion for remand before Magistrate  
7 Judge Larson indicates her intent to consent to his jurisdiction. Therefore, to avoid any  
8 ambiguity in the record, the Court orders Plaintiff to file either a consent to proceed before a  
9 magistrate judge or a request for reassignment to a district judge, per Magistrate Judge  
10 Larson's letter of March 11, 2010.

11 In the event that Plaintiff consents to the jurisdiction of a magistrate judge, the matter  
12 will be reassigned accordingly, and the parties may renote their motions before the assigned  
13 magistrate judge. Should Plaintiff decline to consent to the jurisdiction of a magistrate judge,  
14 the Court will set a briefing schedule and hearing date on her motion to remand, which must be  
15 resolved prior to the Court's consideration of the motion to dismiss. See *Morongo Band of*  
16 *Mission Indians v. Cal. State Bd. of Equalization*, 858 F.2d 1376, 1380 (9th Cir. 1988)  
17 (recognizing that jurisdiction is a threshold inquiry before the adjudication of any case before  
18 the court). Accordingly,

19 IT IS HEREBY ORDERED THAT by no later than **May 14, 2010**, Plaintiff shall  
20 respond to Magistrate Judge Larson's letter of March 11, 2010, and file either the consent form  
21 or request for reassignment. Should Plaintiff fail to comply with this Order, the Court may  
22 impose sanctions, up to and including dismissal of the action. Plaintiff's motion for remand  
23 and Aurora's motion to dismiss shall be held in abeyance pending determination of whether the  
24 action will be reassigned to a magistrate judge or will remain with this Court. The hearing on  
25 Aurora's motion to dismiss scheduled for May 18, 2010 is VACATED.

26 IT IS SO ORDERED.

27 Dated: May 10, 2010

28   
SAUNDRA BROWN ARMSRONG  
United States District Judge