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

MARY C. RICHARDS and GREGORY DAVID
FRANCESCO GIORGI,

Plaintiffs,

v.

BANK OF AMERICA, N.A.; CAL WESTERN
RECONVEYANCE CORPORATION; and
SUPERIOR COURT OF THE STATE OF
CALIFORNIA IN AND FOR MARIN COUNTY,

Defendants.

No. C 10-01163 CW

ORDER DENYING
PLAINTIFFS' MOTION
FOR RECUSAL
(Docket No. 23)

On June 10, 2010, Plaintiffs Mary C. Richards and Gregory David Francesco Giorgi filed a Motion for Recusal of a Judicial Officer, pursuant to 28 U.S.C. § 455(b)(4). Although accompanied by an affidavit, their current motion for recusal contains the identical argument to one filed on March 17, 2010 in a related case. See Bank of Am. v. Richards, No. 10-1062, Docket No. 9 (N.D. Cal.).

Under 28 U.S.C. § 455(b)(4), judges must recuse themselves if they have "a financial interest in the subject matter in controversy or in a party to the proceeding." "Ownership in a mutual or common investment fund that holds securities is not a 'financial interest' in such securities unless the judge

1 participates in the management of the fund." Id. § 455(d)(4). The
2 judge to whom a motion under § 455 is addressed decides whether
3 recusal is necessary. Bernard v. Coyne, 31 F.3d 842, 843 (9th Cir.
4 1994).

5 As in their March 17 motion, Plaintiffs allege that the
6 undersigned owns "private investments in the banking industry."
7 Mot. at 1. In this motion, they cite the undersigned's financial
8 disclosure report. They do not, however, identify any financial
9 interests that would warrant recusal.

10 Accordingly, Plaintiffs' motion for recusal (Docket No. 23) is
11 DENIED.

12 IT IS SO ORDERED.

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14 Dated: August 13, 2010



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CLAUDIA WILKEN
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MARY C. RICHARDS and GREGORY
DAVID FRANCESCO GIORGI,

Plaintiffs,

v.

BANK OF AMERICA N.A., et al.,

Defendants.

Case Number: CV10-01163 CW

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 August 13, 2010, I SERVED a true and correct copy of the attached, by placing said copy in a postage paid envelope addressed to the persons hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy into an inter-office delivery receptacle located in the Clerk's office.

GREGORY DAVID FRANCESCO GIORGI
126 Stadium Avenue
Mill Valley, CA 94941

Mary C. Richards
126 Stadium Avenue
Mill Valley, CA 94941

Dated: August 13, 2010

Richard W. Wieking, Clerk
By: MP, Deputy Clerk