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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIAFEDERAL HOME LOAN MORTGAGE
CORPORATION,

Plaintiff,

v.

VICTOR LOPEZ,

Defendant.

No. C-10-02016-DMR

**ORDER REFERRING FOR FINDING
WHETHER CASES SHOULD BE
RELATED**

C-10-01611-MMC

The Court received random assignment of this case, which was previously removed and filed as C-10-01611-MMC. The Honorable Maxine M. Chesney remanded the case to state court on the grounds that the court lacked federal question jurisdiction over Plaintiff Federal Home Loan Mortgage Corporation's state law claim. *See* Order Remanding Action, Docket # 4, filed April 20, 2010, in Civil Case No. 10-01611-MMC (explaining that "a defendant cannot create federal question jurisdiction by alleging a federal defense to a claim arising under state law").

Defendant Victor Lopez has once again removed and re-filed the case, this time with "42 U.S.C. § 1983 DISCRIMINATION CIVIL RIGHTS FOR DEPRIVATION OF RIGHTS" printed in the caption of the cover sheet. There is no other apparent change in the notice of removal. As far as this Court can tell, this case is identical to C-10-01611-MMC, remanded by Judge Chesney on April 20.

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Civil Local Rule 3-12(c) provides:

***Sua Sponte* Judicial Referral for Purpose of Determining Relationship.** Whenever a Judge believes that a case pending before that Judge is related to another case, the Judge may refer the case to the Judge assigned to the earliest-filed case with a request that the Judge assigned to the earliest-filed case consider whether the cases are related. The referring Judge shall file and send a copy of the referral to all parties to all affected cases. The parties must file any response in opposition to or support of relating the cases pursuant to Civil L.R. 3-12(d). Alternatively, a Judge may order the parties to file a motion pursuant to Civil L.R. 3-12(b).

Accordingly, this Court hereby refers this case to Judge Chesney, as the judge on the earlier-filed case, to decide whether the cases should be related.

IT IS SO ORDERED.

Dated: June 7, 2010



DONNA M. RYU
United States Magistrate Judge