

United States District Court  
For the Northern District of California

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E-FILED on 05/20/09

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

DAISY D. QUESADA,  
  
Plaintiff,  
  
v.  
  
COMMUNITY LENDING, INC. DBA JMAC  
LENDING, EMC MORTGAGE  
CORPORATION, QUALITY LOAN  
SERVICE, MORTGAGE ELECTRONIC  
REGISTRATION SYSTEM, INC., and all  
persons unknown, claiming, any legal or  
equitable right, title, estate, lien, or interest in  
the property described in this complaint  
adverse to Plaintiff's title thereto, and DOES 1  
through 30, inclusive,  
  
Defendants.

No. C-08-05790 RMW

ORDER REGARDING MOTION TO  
DISMISS

[Re Docket No. 12]


On January 7, 2009, defendants EMC Mortgage Corporation ("EMC") and Mortgage Electronic Registration Systems, Inc. ("MERS") removed this case from Santa Clara County Superior Court. On January 9, 2009, EMC and MERS moved to dismiss the complaint for failure to state a claim. Plaintiff then filed a first amended complaint on February 3, 2009, which eliminated the claims for relief arising under federal law. See Opp. to Mot. to Dismiss 2. Plaintiff apparently anticipates moving to remand. *Id.*

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The amended complaint no longer seeks relief under federal law. In addition, the deed of trust included as Exhibit 1 to defendants' request for judicial notice (Docket No. 12) lists "ComUnity Lending Inc." (presumably the same entity as defendant Community Lending, Inc.) as a California corporation. Because the complaint on its face does not appear to provide a basis for exercising federal-question or diversity jurisdiction, the court requests additional briefing from defendants, not to exceed five pages, setting forth any basis for continued federal jurisdiction in this case.

Defendants shall file their brief by Friday, May 29, 2009. The hearing on the pending motion to dismiss is continued to Friday, June 12, 2009.

DATED: 05/20/09

  
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RONALD M. WHYTE  
United States District Judge

