

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 08-5797 CAS (MANx)	Date	November 4, 2008
Title	Downey Savings and Loan Association, F.A. v. Guadalupe Arteaga Contreras et al.		

Present: The Honorable	CHRISTINA A. SNYDER		
CATHERINE JEANG	Not Present	N/A	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
Not Present	Not Present		

Proceedings: (IN CHAMBERS): CORRECTED ORDER TO SHOW CAUSE RE: WHY ACTION SHOULD NOT BE REMANDED FOR LACK OF SUBJECT MATTER JURISDICTION

On October 16, 2008, this Court issued an order to show cause why the instant action should not be remanded for lack of subject matter jurisdiction. The Court erroneously directed plaintiff, rather than defendants, to show cause. The Court hereby issues this corrected order to show cause.

I. INTRODUCTION

On August 19, 2008, plaintiff Downey Savings and Loan Association, F.A. filed an unlawful detainer action in Los Angeles County Superior Court against defendants Guadalupe Arteaga Contreras, and Does 1 through 10, inclusive. Plaintiff alleges that it purchased property located at 6914 Lubao Avenue, Canoga Park, California 91306 (“the property”), at a trustee’s sale following foreclosure proceedings. Compl. ¶ 5. Plaintiff further alleges that it served defendants, who allegedly occupied the property without consent, a written notice requiring delivery of the property within three days. *Id.* ¶ 8. Defendants allegedly refused to vacate and deliver possession of the property. *Id.* ¶ 10. On September 3, 2008, defendants timely removed the instant action to this Court on the basis of federal question jurisdiction, pursuant to 28 U.S.C. § 1331. Notice of Removal 2:4-8.

The question of whether a claim arises under federal law, for purposes of 28 U.S.C. § 1331, must be determined by reference to the complaint. *Franchise Tax Bd. v. Constr. Laborers Trust*, 463 U.S. 1, 9-10 (1983). If it “appears from the ... statement of the

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plaintiff that the right to relief depends upon the construction or application of the Constitution or laws of the United States,” this Court will have jurisdiction. Smith v. Kansas City Title & Trust Co., 255 U.S. 180, 199 (1921).

Defendants fail to allege that plaintiff’s claim arises under any federal law. Defendants merely allege that federal jurisdiction results from the defendants’s discovery request and demands for “the original blue inked promissory note.” Notice of Removal 2:5-7. Without a showing that plaintiff’s right to relief depends on a substantial question of federal law, this Court cannot exercise jurisdiction over this action pursuant to 28 U.S.C. § 1331.

Defendants are hereby ORDERED to SHOW CAUSE on or before November 19, 2008, why the instant action should not be remanded for lack of subject matter jurisdiction.

IT IS SO ORDERED.

Initials of Preparer

____ 00 : ____ 00
____ CMJ
