

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

JS 6

Case No. CV 08-6374 DSF (RZx)

Date 11/3/08

Title KGV Easy Leasing, Inc. v. NHIC Corporation et al.

Present: The Honorable DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (In Chambers) Order Remanding Action to State Court

Defendants’ Motion to Dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(5) was filed on October 6, 2008, asserting, inter alia, that this Court lacks subject matter jurisdiction. Opposition was due on October 27, 2008. No Opposition was filed. The Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. The hearing set for November 10, 2008 is removed from the Court’s calendar.

The Court deems the lack of opposition to be consent to the Motion to Dismiss. Local Rule 7-12; see also Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995); Brydges v. Lewis, 18 F.3d 651, 652 (9th Cir. 1993). However, Plaintiff attempted to file a motion to remand and motion to amend its complaint to “clarify” that its claims were state claims rather than federal claims. The motions were rejected because they were not electronically filed. Plaintiff electronically filed the Motion to Remand on October 31, 2008.

The Court also independently concludes that it lacks subject matter jurisdiction. In the unlikely event that plaintiff can state a claim under state law, the Court remands, rather than dismisses, the action. “If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447(c).

This action is remanded to the Superior Court of California, County of Los Angeles.

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IT IS SO ORDERED.