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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS-6

## CIVIL MINUTES - GENERAL

Case No.	CV 10-689 PSG (RCx)	Date	March 12, 2010
Title	Aurora Loan Services, LLC v. Vilma D. Jones		

Present: The Honorable Philip S. Gutierrez, United States District Judge

Wendy K. Hernandez	Not Present	n/a
Deputy Clerk	Court Reporter	Tape No.

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

**Proceedings: (In Chambers) Order Remanding Case**

On January 29, 2010, Defendant Vilma D. Jones (“Defendant”) removed this case under 28 U.S.C. § 1443(1), which, in relevant part, provides for removal of any civil action commenced in state court

[a]gainst any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof . . . .

*See* 28 U.S.C. § 1443(1). It is well settled in this circuit that such a petition for removal must satisfy a two-part test. *See Patel v. Del Taco, Inc.*, 446 F.3d 996, 998-99 (9th Cir. 2006). “First, the petitioners must assert, as a defense to the prosecution, rights that are given to them by explicit statutory enactment protecting equal racial civil rights.” *Id.* at 999 (internal quotations omitted). “Second, petitioners must assert that the state courts will not enforce that right, and that allegation must be supported by reference to a state statute or a constitutional provision that purports to command the state courts to ignore the federal rights.” *Id.* (internal quotations omitted).

Here, even assuming Defendant has satisfied the first part of the foregoing test, Defendant has failed to satisfy the second. Defendant’s notice of removal fails to identify any state statute or constitutional provision that purports to command the state courts to ignore her federally protected “equal racial civil rights.” *See id.* Nor does Defendant point to anything that suggests that the state court refused to enforce those rights in the state court proceedings. *See id.*

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For the foregoing reasons, the Court REMANDS this action to state court. *See id.*

**IT IS SO ORDERED.**