

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. **CV 11-08005-RGK (AGR_x)** Date September 30, 2011

Title **FEDERAL NATIONAL MORTGAGE ASSOCIATION v. ZELEDON**

Present: The Honorable R. GARY KLAUSNER, U.S. DISTRICT JUDGE

Sharon L. Williams

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) ORDER REMANDING CIVIL ACTION TO SUPERIOR COURT

On September 27, 2011 Defendants Ana and Johnny Zeledon (collectively “Defendants”), representing themselves pro se, removed this action from the Los Angeles County Superior Court of California to the United States District Court, Central District of California on the basis of federal question jurisdiction and diversity of citizenship. Plaintiff Federal National Mortgage Association (“Plaintiff”) originally filed this case on August 25, 2011.

Removal jurisdiction is governed by statute. *See* 28 U.S.C. §§ 1441, et seq. The Ninth Circuit has held unequivocally that the removal statute is construed strictly against removal. *Ethridge v. Harbor House Rest.*, 861 F.2d 1389, 1393 (9th Cir. 1988). The strong presumption against removal jurisdiction means that “the defendant always has the burden of establishing that removal is proper.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (*citing Nishimoto v. Federman-Bachrach & Assocs.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990)); *see also In re Ford Motor Co./Citibank (South Dakota), N.A.*, 264 F.3d 952, 957 (9th Cir. 2001) (“The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court.”).

Removal is only proper within thirty days of the date of service of the first pleading which sets forth a basis for removal. 28 U.S.C. § 1446(b). Defendants were served with the Complaint on August 19, 2011 and did not serve the notice of removal until September 27, 2011. The removal is untimely as it was filed more than thirty days after the service of the Complaint.

In light of the foregoing, the Court hereby **remands** the action to state court for all further proceedings.

IT IS SO ORDERED.

Initials of Preparer _____ : _____
slw