

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22



JS - 6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEUTSCHE BANK NATIONAL TRUST)	Case No. CV 12-08028 DDP (Ex)
COMPANY AS TRUSTEE OF THE)	
HOME EQUITY MORTGAGE LOAN)	
ASSET-BACKED TRUST SERIES IN)	ORDER GRANTING PLAINTIFF'S MOTION
ABS 2007-B, HOME EQUITY)	TO REMAND
MORTGAGE LOAN ASSET-BACKED)	
CERTIFICATES, SERIES IN ABS)	
2007-B UNDER THE POOLING AND)	[Dkt. 4]
SERVICING AGREEMENT DATED)	
JUNE 1, 2007,)	
)	
Plaintiffs,)	
)	
v.)	
)	
ELMER ALVARO, DANIEL PEREZ,)	
PAOLA VALVERDE, MARIO RIVA,)	
GRISELDA NAVA,)	
)	
Defendants.)	
)	
_____)	

Presently before the court is Plaintiff's Motion to Remand. Having considered the submissions of the parties, the court grants the motion and adopts the following order.

On August 2, 2012, Plaintiff filed a complaint for unlawful detainer against Defendants in the Superior Court of California. The Complaint seeks possession of property located at 2118 Crenshaw

1 Boulevard, Los Angeles, California, and damages of \$83.00 per day.
2 Defendants removed to this court on September 18, 2012. Plaintiff
3 now seeks to remand the matter to state court.

4 A defendant may remove to federal court "any civil action
5 brought in a State court of which the district courts of the United
6 States have original jurisdiction" 28 U.S.C. § 1441(a).
7 District courts have original jurisdiction over "all civil actions
8 arising under the Constitution, laws, or treaties of the United
9 States. 28 U.S.C. § 1331. The removal statute is strictly
10 construed against removal jurisdiction, and federal jurisdiction
11 must be rejected if any doubt exists as to the propriety of
12 removal. Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992).
13 A removing defendant always bears the burden of establishing that
14 removal is proper. Id.

15 No federal question appears from the face of the complaint.
16 Nevertheless, Defendants assert that this case implicates a federal
17 question because they have a defense under the United States
18 Constitution. (Opp. at 3.) "Under the longstanding well-pleaded
19 complaint rule, however, a suit 'arises under' federal law only
20 when the plaintiff's statement of his own cause of action shows
21 that it is based upon federal law." Vaden v. Discover Bank, 556
22 U.S. 49, 60 (2009) (quotation, citation, and alteration omitted).
23 "Federal law" cannot be predicated on a defense or counterclaim.
24 Id.

25 This court also has original diversity jurisdiction over
26 actions between different states where the amount in controversy
27 exceeds \$75,000. 28 U.S.C. 1332(a). Plaintiff asserts that the
28 parties are not diverse as both are residents of California. (Mot.

1 at 2.) Defendants do not dispute this. In addition, the amount in
2 controversy requirement is not met here. First, the face of
3 Plaintiff's complaint alleges on its face an amount in controversy
4 less than \$10,000. Under such circumstances, Defendants must show
5 to a "legal certainty" that the jurisdictional minimum is met.
6 Guglielmino v. McKee Foods Corp., 5056 F.3d 696, 699 (9th Cir.
7 2007). Defendants have not made such a showing. In unlawful
8 detainer cases, however, only the right to possession is at issue,
9 not right to title. See Litton Loan Servicing, L.P. v. Villegas,
10 No. C 10-05478 PJH, 2011 WL 204322 at *2 (N.D. Cal. January 21,
11 2011). The measure of damages, therefore, is the amount sought in
12 the complaint, not the value of the property. Bank of America v.
13 Chishty, No. CV 12-02252 MMM, 2012 WL 1952834 at *2 (C.D. Cal. May
14 31, 2012). Because the amount in controversy here does not exceed
15 \$75,000, diversity jurisdiction is lacking, and removal is,
16 therefore, improper.

17 For the reasons stated above, Plaintiff's Motion to Remand is
18 GRANTED.

19

20

21 IT IS SO ORDERED.

22

23

24 Dated: October 15, 2012

25

26

27

28


DEAN D. PREGERSON
United States District Judge