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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

U.S. BANK NATIONAL, as)	Case No. CV 12-09686 DDP (PJWx)
Trustee and successor in)	
interest to BANK OF AMERICA)	ORDER TO SHOW RE: AMOUNT IN
NATIONAL ASSOCIATION,)	CONTROVERSY
)	
Plaintiff,)	
)	
v.)	
)	
RICHARD OLEA; CLAYTON M.)	
BERNARD EX,)	
)	
Defendants.)	
_____)	

19 Defendants are ordered to show cause why this action should
20 not be remanded for lack of subject matter jurisdiction.
21 Defendants appear to have removed the action to this court on the
22 basis of federal question jurisdiction. (Notice of Removal ¶19.)
23 "Under the longstanding well-pleaded complaint rule, however, a
24 suit 'arises under' federal law only when the plaintiff's statement
25 of his own cause of action shows that it is based upon federal
26 law." Vaden v. Discover Bank, 556 U.S. 49, 60 (2009) (quotation,
27 citation, and alteration omitted). "Federal law" cannot be
28 predicated on a defense or counterclaim. Id. No federal question

1 appears from the face of the complaint, so it does not appear that
2 the court has jurisdiction on the basis of a federal question.

3 Defendants also appear to have removed the action on the basis
4 of diversity jurisdiction. (Notice of Removal ¶ 21.) This court
5 has original jurisdiction over actions between different states
6 where the amount in controversy exceeds \$75,000.¹ 28 U.S.C.
7 1332(a). It is not clear to the court that the complaint alleges
8 damages that meet the \$75,000 jurisdictional requirement. The only
9 damages apparently alleged in the complaint are "the fair rental
10 value of the premises" at \$50 per day. (Compl., Exh. 1.)

11 Accordingly, Defendants are ordered to file a brief, not to
12 exceed five pages, by Friday, January 4, 2013, showing cause why
13 this action should not be remanded for lack of subject matter
14 jurisdiction. Defendant should also deliver a courtesy copy to
15 chambers, Room 244-J, Second Floor, 312 N. Spring Street, Los
16 Angeles. Failure to file a brief in accordance with this Order
17 will be deemed consent to remand of this action.

18
19 IT IS SO ORDERED.

20
21
22 Dated: December 17, 2012


DEAN D. PREGERSON
United States District Judge

23
24
25
26 _____
27 ¹In Defendants' filing at Dkt. No. 6, they assert that the
28 damages incurred to the defendant are in excess of \$75,000 as
indicated in the Notice of Removal. The court cannot locate that
figure in the Notice of Removal and notes that in any case, the
amount in controversy must be at issue in the Complaint itself.