

JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## CIVIL MINUTES - GENERAL

Case No.	CV 13-1453-GHK (CWx)	Date	March 29, 2013
Title	<i>The Bank of New York Mellon Trust Company v. Mary Esther Angulo, et al.</i>		

Presiding: The Honorable

GEORGE H. KING, CHIEF U. S. DISTRICT JUDGE

Beatrice Herrera

N/A

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

**Proceedings:** (In Chambers) Order Remanding action; Plaintiff's Motion to Remand (Dkt. No. 3)

On March 7, 2013, we required Defendants to show cause why this action should not be remanded for lack of subject matter jurisdiction, given that this appears to be an improperly removed unlawful detainer action. On March 18, 2013, Defendants timely responded to our OSC. Defendants' response appears to reattach their Notice of Removal and reasserts that Defendants "rebut[] the presumption that this is a non-judicial foreclosure issue" and that Plaintiff has engaged in, *inter alia*, fraud and violated their due process rights. (Response 1-3). As we explained in our March 7, 2013 OSC, however, even if these arguments raise a federal question, federal jurisdiction cannot rest upon an actual or anticipated defense or counterclaim under the well-pleaded complaint rule. *California ex rel. Lockyer v. Dynegy, Inc.*, 375 F.3d 831, 838 (9th Cir. 2004); *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009).

Based on the foregoing, we conclude that we lack subject matter jurisdiction over this matter. We hereby **REMAND** this action to the state court from which it was removed. Plaintiff's Motion to Remand is **DENIED** as moot.

**IT IS SO ORDERED.**

Initials of Deputy Clerk

IR for Bea