

FILED
CLERK, U.S. DISTRICT COURT
OCT 26, 2015
CENTRAL DISTRICT OF CALIFORNIA
BY: vdr DEPUTY

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Park Sierra Properties II, L.P.,
PLAINTIFF,
v.
Tanya L. Paul, et al.,
DEFENDANTS.

Case No. CV 15-8178 FMO (SS)

**ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION**

The Court will remand this unlawful detainer action to state court summarily because Defendant removed it improperly.

On October 19, 2015, Defendant Tanya L. Paul, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice Of Removal of that action to this Court and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

1 Simply stated, this action could not have been originally
2 filed in federal court because the complaint does not competently
3 allege facts supporting either diversity or federal-question
4 jurisdiction, and therefore removal is improper. 28 U.S.C.
5 § 1441(a), see Exxon Mobil Corp v. Allapattah Svcs., Inc., 545
6 U.S. 546, 563 (2005). Defendant's notice of removal asserts that
7 the unlawful detainer action presents a federal question arising
8 under the Protecting Tenants at Foreclosure Act of 2009, 12
9 U.S.C. section 5220 ("PTFA"), and various other federal statutes.
10 (Notice at 3-7). However, the PTFA is only alleged as a
11 defense. To the extent that Defendant will attempt to raise
12 federal defenses in the unlawful detainer action, these attempts
13 are inadequate to confer federal question jurisdiction. Merrell
14 Dow Pharmaceuticals, Inc. v. Thompson, 478 U.S. 804, 808 (1986)
15 ("A defense that raises a federal question is inadequate to
16 confer federal jurisdiction."). Accordingly, IT IS ORDERED that
17 (1) this matter be REMANDED to the Superior Court of California,
18 County of Los Angeles, 300 E. Walnut St., Pasadena, CA 91101, for
19 lack of subject matter jurisdiction pursuant to 28 U.S.C.
20 § 1447(c); (2) that the Clerk send a certified copy of this Order
21 to the state court; and (3) that the Clerk serve copies of this
22 Order on the parties.

23

24 IT IS SO ORDERED.

25

26 DATED: October 26, 2015

27

/s/
FERNANDO M. OLGUIN
UNITED STATES DISTRICT JUDGE

28