

REMAND/JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 16-7953-GW(SKx) Date February 22, 2017

Title *Hector Alvarado v. June E. Toft, et al.*

Present: The Honorable GEORGE H. WU, UNITED STATES DISTRICT JUDGE

Javier Gonzalez

None Present

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None Present

None Present

PROCEEDINGS (IN CHAMBERS): ORDER

On October 25, 2016, the United States, on behalf of real party-defendant in interest Julian Castro, in his official capacity as Secretary of the U.S. Department of Housing and Urban Development (“HUD”) removed the above-entitled action to this Court. *See* Notice of Removal, Docket No. 1. In the Notice of Removal, the United States indicated that HUD’s Foreclosure Commissioner Mortgage Lender Services (“Foreclosure Commissioner”) received notice of an *ex parte* application for a temporary restraining order (“TRO”) filed in Los Angeles Superior Court related to foreclosure proceedings on a property located at 14540 Cullen Street, Whittier, California 90603 (the “Property”).¹ *Id.* ¶¶ 2-9. HUD is not a named party in the underlying action and did not receive notice of the TRO, however, the United States asserts that HUD is the real party-defendant in interest because HUD holds the First Deed of Trust for the Property, as well as the Adjustable Rate Home Conversion Second Deed of Trust for the Property. *Id.*; *see also id.* Exs. A-C, Docket Nos. 1-1 to 1-3. On August 18, 2016, the Foreclosure Commissioner recorded a Notice of Default and Foreclosure Sale for the Property on behalf of HUD. *Id.* ¶ 6; Ex. A.

The United States removed the action pursuant to 28 U.S.C. § 1442(a)(1), which authorizes the removal of civil actions against “[t]he United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity” *See* 28 U.S.C. § 1442(a)(1). However, on January 19, 2017, the United States filed a Motion to Remand this action to Los Angeles Superior Court.² *See* Mot. to Remand, Docket No. 20.

¹ The United States did not attach any documents from the underlying state court action to its Notice of Removal, and it is therefore unclear what claims and factual allegations the TRO raised.

² None of the named parties in the underlying action have filed a response to the Motion to Remand.

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The United States asserts that on November 23, 2016, Plaintiff Hector Alvarado purchased the Property by submitting a deposit, and submitted the remaining funds for the purchase on January 6, 2017. *Id.* at 2:16-21; *see also* Decl. of Abigail Greenspan (“Greenspan Decl.”) ¶¶ 2-3. As a result, the United States contends that it no longer has any interest in the Property, and requests that the case be remanded for resolution of any disputes between the remaining parties. *See* Mot. to Remand at 3:1-3.

Because there no longer appears to be any basis for this Court to exercise jurisdiction, the Court REMANDS this action forthwith to Los Angeles Superior Court. The Court VACATES the hearing on the Motion to Remand scheduled for February 27, 2017.

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