

**REMAND/JS-6**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

<b>Case No.</b>	CV 17-6559-GW(MRWx)	<b>Date</b>	October 3, 2017
<b>Title</b>	U.S. Bank, N.A. v. Darren Henderson, et al.		

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**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 REMANDING ACTION TO STATE COURT**

Plaintiff U.S. Bank, N.A. sued Defendants Darren Henderson; Vanessa Henderson; Jesus Mejia; the City of Bakersfield; United Capital Equity Management, LLC; Kenny Alcala; Cach, LLC; and Does 1 through 50, inclusive, in the Superior Court of California. *See generally* Notice of Removal, Ex. 1 (First Amended Complaint), Docket No. 1 at 14-21 of 86. The First Amended Complaint seeks declaratory relief relating to real property located in Bakersfield, CA. *See generally id.* On September 6, 2017, Defendant Kenny Alcala, *in pro per*, removed the suit to this Court, citing its diversity jurisdiction. *See generally* Notice of Removal, Docket No. 1 at 1-6 of 86. Defendant Alcala states that removal is permitted because he is a citizen of California while Plaintiff is a citizen of Ohio. *See id.* at 3 of 86.

28 U.S.C. § 1441 permits a civil action filed in state court to be removed by a defendant if the case could have been filed originally in federal court. “[T]he purpose of removal jurisdiction was to protect nonresident defendants from local prejudice they might encounter in state courts (i.e. local judges or jurors favoring local plaintiffs.)”. O’Connell & Stevenson, *Federal Civil Procedure Before Trial: California & 9th Circuit Edition*, § 2:2191 (Rutter Group 2017). As such, a civil action otherwise removable solely on the basis of the federal courts’ diversity jurisdiction may not be removed “if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action was brought.” 28

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Initials of Preparer    JG

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U.S.C. § 1441(b)(2).

Plaintiff brought suit in the Superior Court of California. Defendant Alcala, the removing defendant, states in his Notice of Removal that he is a citizen of California. Because he seeks to invoke the Court’s diversity jurisdiction and is a citizen of the state in which Plaintiff brought suit, 28 U.S.C. § 1441(b)(2) deprives the Court of removal jurisdiction based on diversity.

For the foregoing reasons, the action is remanded forthwith to the Superior Court of the State of California for the County of Kern.

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