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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
3470 Twelfth Street, Riverside, CA 92501
CIVIL MINUTES -- GENERAL

Case No. ED CV 08-01324-SGL(VBKx)

Date: November 5, 2008

Title: U.S. BANK NATIONAL ASSOCIATION, et al. -v- MARIA H. REYES, et al.

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PRESENT: HONORABLE STEPHEN G. LARSON, UNITED STATES DISTRICT JUDGE

Jim Holmes
Courtroom Deputy Clerk

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None present

None present

PROCEEDINGS: ORDER REMANDING MATTER TO STATE COURT

The Court has received and reviewed defendant's response to the Court's Order to Show Cause ("OSC"). As noted in the OSC, from a review of the notice of removal filed by defendant in this Court there appeared to be problems with the Court's ability to exercise jurisdiction over the matter removed from state court. To repeat, the matter that was removed was an unlawful detainer action instituted by plaintiff to have defendant ejected from property owned by plaintiff. The unlawful detainer action explicitly averred that plaintiff was seeking damages for less than \$10,000. Given that the nature of the claim at issue in the suit was state law in origin, and that the amount in controversy was explicitly limited, it appeared to the Court that it lacked any basis to exercise jurisdiction insofar as diversity jurisdiction was concerned (where for such jurisdiction to exist there must be parties of diverse citizenship where the amount of controversy was more than \$75,000).

The notice of removal also made mention that a federal question was presented due to the fact that defendant had made a discovery request for plaintiff to produce "**THE ORIGINAL BLUE INKED PROMISSORY NOTE**" (as apparently a note holder must possess before having a right to foreclose on a property), and yet one was never produced in response to that discovery request. As the Court noted in the OSC, federal question jurisdiction does not come into existence due to failures to produce on discovery demands; rather, such jurisdiction is the product of the actual claims animating the suit itself.

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Initials of Deputy Clerk: jh

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U.S. BANK NATIONAL ASSOCIATION, et al. v MARIA H. REYES, et al.

MINUTE ORDER of November 5, 2008

In her response, defendant notes that she is not a lawyer, submits an answer she filed to a motion for judgment filed by plaintiff in state court "as proof enough to keep my case in federal court," and then raises aspersions as to plaintiff's right to foreclose (significantly, it appears that the state court matter that was removed to this Court has gone to or is about to reach final judgment, raising yet another fundamental defect in the attempted removal).

Given that the substantial questions to this Court's ability to exercise subject matter jurisdiction over this matter have not been satisfied, the Court hereby summarily **REMANDS** the matter to Riverside County Superior Court.

IT IS SO ORDERED.