

**PRIORITY SEND**



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JS - 6

CIVIL MINUTES -- GENERAL

Case No. EDCV10-01506-VAP(DTBx)

Date: October 20, 2010

Title: U.S. BANK NATIONAL ASSOCIATION -v- REFUGIO J. PEREZ, and  
DOES 1-10 inclusive

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PRESENT: HONORABLE VIRGINIA A. PHILLIPS, U.S. DISTRICT JUDGE

Marva Dillard  
Courtroom Deputy

None Present  
Court Reporter

ATTORNEYS PRESENT FOR  
PLAINTIFFS:

ATTORNEYS PRESENT FOR  
DEFENDANTS:

None

None

PROCEEDINGS: MINUTE ORDER REMANDING ACTION TO CALIFORNIA  
SUPERIOR COURT FOR THE COUNTY OF SAN  
BERNARDINO (IN CHAMBERS)

On September 23, 2010, Plaintiff U.S Bank National Association ("Plaintiff")  
filed a complaint for unlawful detainer ("Complaint") against Defendant Refugio J.  
Perez ("Defendant"). On October 4, 2010, Defendant removed the action to this  
Court on the basis of diversity jurisdiction, 28 U.S.C. §§ 1332. (See Not. of Removal  
at 1-2.)

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Initials of Deputy Clerk \_\_\_\_\_

Removal jurisdiction is governed by statute. See 28 U.S.C. §1441. The Ninth Circuit applies a strong presumption against removal jurisdiction, and "the defendant always has the burden of establishing that removal is proper." Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992) (citing Nishimoto v. Federman-Bachrach & Assocs., 903 F.2d 709, 712 n.3 (9th Cir. 1990)); see also In re Ford Motor Co./Citibank, 264 F.3d 952, 957 (9th Cir. 2001) ("The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court."). "If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. § 1447(c); see FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990) ("federal courts are under an independent obligation to examine their own jurisdiction").

Defendant alleges removal is proper on the basis of diversity jurisdiction, 28 U.S.C. § 1332. (See Not. of Removal at 2.) Upon review of the Complaint and the Notice of Removal, however, the Court finds no basis for diversity jurisdiction. Defendant does not explain how a "limited case," in which Plaintiff alleges damages are no more than \$10,000, could be valued at \$75,000 to meet the statutory requirements for diversity jurisdiction. See 28 U.S.C. § 1332. Thus, Defendant has not met his burden of establishing that the amount in controversy requirement is satisfied.

Furthermore, nothing in the Complaint suggests the Court has original subject matter jurisdiction over this action.

For the foregoing reasons, Defendant has not met his burden of establishing that the case is properly in federal court. See Gaus, 980 F.2d at 566. Thus, the Court REMANDS the action to the Superior Court for the County of San Bernardino.

**IT IS SO ORDERED.**