UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

BANK OF AMERICA, N.A., Plaintiff, vs. JOHNATHAN OSBORNE, et al., Defendants.	Case No. ED CV 12-594-UA (DUTYx) ORDER SUMMARILY REMANDING IMPROPERLY-REMOVED ACTION

The Court will remand this action to quiet title to state court summarily because defendant William M. Hill – the second defendant named in the state case – removed it improperly.

On April 20, 2012, defendant Hill, having been sued in an action to quiet title in California Superior 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.

Simply stated, defendant has not competently alleged facts supplying either diversity or federal question jurisdiction, and therefore removal is improper. 28

U.S.C. § 1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Here, defendant asserted diversity jurisdiction as his basis for removal, in that he cited to 28 U.S.C. § 1332 and alleged the amount in controversy exceeds $75,000. But as described in more detail in the Order Denying Defendant's Request to Proceed Without Prepayment of Filing Fee, because neither the Notice of Removal nor the underlying Complaint alleges diversity of citizenship, there is no basis to assert diversity jurisdiction. *See* 28 U.S.C. §§ 1332, 1441.

Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the Superior Court of California, Riverside County, 4050 Main Street, Riverside, CA 92501, for lack of subject matter jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified copy of this Order to the state court; and (3) that the Clerk serve copies of this Order on the parties.

DATED: 4/26/2016

ABC Collins
HONORABLE AUDREY B. COLLINS
CHIEF UNITED STATES DISTRICT JUDGE