

JS-6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re Matter of Estate of MARY
HUFF

EDCV 19-1585 DSF (KKx)

Order GRANTING Motion to
Remand Case to State Court

The Secretary of Housing and Urban Development removed this case from state probate court on the basis of the Secretary's interest in a deed of trust encumbering property of the Estate of Mary Huff. The Administrator of the Estate has moved for remand. The Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. The hearing set for October 21, 2019 is removed from the Court's calendar.

The Supreme Court has clarified that the probate exception to federal jurisdiction is narrow, but it does "reserve[] to state probate courts the probate or annulment of a will and the administration of a decedent's estate; it also precludes federal courts from endeavoring to dispose of property that is in the custody of a state probate court." Marshall v. Marshall, 547 U.S. 293, 311–12 (2006).

Despite the Secretary's pronouncements to the contrary, the matter the Secretary has removed clearly involves disposing of property of the Estate already under the jurisdiction of the probate court.

HUD has removed . . . only the two petitions that affect HUD's interests, namely (1) the Report of Sale and Petition for Order Confirming Sale of Real Property . . . , and (2) the

Petition for Sale Proceeds of Encumbered Property from
Deed of Trust Held by Housing and Urban Development
and to Determine the Amount Reasonably Related to Sale
of Real Property

Opp'n at 1.

The Secretary, citing the Supremacy Clause, reaches for what would amount to a federal agency or officer exception to the probate exception, but cites no specific authority in support of such a concept and such authority does not appear to exist.

The motion to remand is GRANTED. The case is REMANDED to the Superior Court of California, County of San Bernardino.

IT IS SO ORDERED.

Date: October 9, 2019



Dale S. Fischer
Dale S. Fischer
United States District Judge