US Bank National Assocaition v. Raymond L Espiritu et al Doc. 3

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 08-973 JVS (JCx) Date September 12, 2008

Title US Bank National Association v. Espiritu

Present: The Honorable James V. Selna

Karla J. Tunis	Not Present
Deputy Clerk	Court Reporter
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
Not Present	Not Present

Proceedings: (In Chambers) Order to Show Cause re Jurisdiction

The Court has made a preliminary review of the Notice of Removal ("Notice") filed by defendant Raymond L. Espiritu ("Espiritu) of August 29, 2008.

There were would appear to be no basis for jurisdiction in this Court.

Espiritu asserts that he is proceeding in diversity. (Notice, p. 2.) However, he does not allege the citizenship of US Bank National Association. The Court cannot determine whether there is in fact complete diversity as required by 28 U.S.C. 1332(a). Moreover, although he asserts that the amount in controversy is over $75,000 (Notice, p. 2), all that is claimed in the complaint is $50 per day from July 17, 2008. (Complaint, Prayer, ¶ 2.) The caption of the complaint states that the "AMOUNT DEMANDED DOES NOT EXCEED $10,000," and the case is filed in limited jurisdiction where the amount of any recovery cannot exceed $25,000. Thus it would appear that Espiritu cannot meet the amount in controversy requirement of at least $75,000.

No basis appears in the Notice or in the complaint to assert federal question jurisdiction under 28 U.S.C. § 1331, although the Notice observes that "there are [sic] no absolute expressed prohibition against removal of the federal claims set forth" in the complaint. (Notice, p. 2.)

Espiritu is ordered to show cause in writing within 10 days why the case should not be remanded to Orange County Superior Court for lack of jurisdiction.

: 00

Initials of Preparer kjt

Dockets.Justia.com