

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

CIVIL MINUTES - GENERAL

Case No. SA CV 08-1417 DOC (RNBx)

Date: January 28, 2009

Title: RAFAEL ALZAGA AND CELIA ROCHA V. T.D. SERVICE COMPANY, HOMEQ
SERVICING, AND DOES 1-50, INCLUSIVE

DOCKET ENTRY

[I hereby certify that this document was served by first class mail or Government messenger service, postage prepaid, to all counsel (or parties) at their respective most recent address of record in this action on this date.]

Date: _____ Deputy Clerk: _____

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Kristee Hopkins

Courtroom Clerk

Not Present

Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS: ATTORNEYS PRESENT FOR DEFENDANTS:

NONE PRESENT

NONE PRESENT

PROCEEDING (IN CHAMBERS): ORDER TO SHOW CAUSE RE REMAND TO STATE COURT

On December 15, 2008 this action was removed to this Court pursuant to 28 U.S.C. § 1441(b) and 1446(b). However, removal appears to be improper. While Defendant HomeQ Servicing (“HomeQ Servicing”) alleges it has not been formally served by Plaintiffs Rafael Alzaga and Celia Rocha (“Plaintiffs”), 28 U.S.C. § 1446(b) states that “removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service *or otherwise*, of a copy of the initial pleading setting forth the claim....” 28 U.S.C. § 1446(b) (emphasis added). Thus, even though HomeQ Servicing has not been formally served, removal must still be within thirty days from receipt of the complaint.

Additionally, although HomeQ Servicing states Defendant T.D. Service Company (“T.D. Service Company”) has been served, it does not allege when T.D. Service Company was served or otherwise received Plaintiff’s complaint. Furthermore, HomeQ Servicing has not alleged when the first defendant to be served was served.

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Accordingly, the Court orders Defendant(s) to show cause in writing **by February 12, 2009** why this action should not be remanded. Plaintiff(s) may submit a response in the same time period.

The Clerk shall serve this minute order on all parties to the action.