

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

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|-------------------------------|---|----------------------------------|
| ALAN GJUROVICH |) | Case No. 1:10-cv-01721 AWI JLT |
| |) | |
| Plaintiff, |) | ORDER ADOPTING FINDINGS AND |
| |) | RECOMMENDATION DENYING MOTION |
| vs. |) | TO PROCEED IN FORMA PAUPERIS AND |
| |) | REMANDING THE MATTER TO THE KERN |
| GMAC MORTGAGE LLC, UNITED |) | COUNTY SUPERIOR COURT |
| STATES OF AMERICA, REAL PARTY |) | |
| IN INTEREST, |) | (Doc. 4) |
| |) | |
| Defendants. |) | |
| _____ |) | |

Alan Gjurovich is seeking to remove an unlawful detainer action filed in the Kern County Superior Court based. (Doc. 1) Gjurovich seeks to challenge the unlawful detainer action and the underlying determination that the GMAC has good title to the subject real property, located at 3018 Linden Avenue in Bakersfield, California. (Doc. 1 at 3) In this effort, Gjurovich sought to proceed in forma pauperis (“IFP”).

On September 29, 2010, the Magistrate Judge recommended that Gjurovich’s motion to proceed IFP be denied. (Doc. 4) The Magistrate Judge found that the complaint failed to state a claim for many reasons.

First, the notice of removal was not timely (28 U.S.C. § 1452(a)). Second, the Magistrate Judge found that equitable considerations weighed in favor of remand because remanding the

1 matter would have no impact on Gjurovich's Bankruptcy proceeding, which was a basis for
2 Gjurovich's action removing the matter to this Court, the Kern County Superior Court had
3 determined already that GMAC has good title to the real property at issue, has issued judgment
4 against Gjurovich and has issued a writ of possession requiring Gjurovich to vacate the property.
5 Finally, the Magistrate Judge determined that Gjurovich inappropriately used the judicial process
6 for the purpose of thwarting GMAC's lawful entitlement to possession of the real property for
7 reasons that are harassing and taken with improper motives.

8 Although Gjurovich was granted 14 days from September 29, 2010, or until October 18
9 2010, to file objections to the Amended Findings and Recommendations, he did not.

10 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C) and Britt v. Simi Valley
11 United School Dist., 708 F.2d 452, 454 (9th Cir. 1983), this Court has conducted a *de novo*
12 review of the case. Having carefully reviewed the entire file, the Court finds that the findings and
13 recommendation are supported by the record and by proper analysis.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The findings and recommendations filed September 29, 2010, are **ADOPTED IN**
16 **FULL**;
- 17 2. The motion to proceed IFP is **DENIED**;
- 18 3. The matter is **ORDERED** to be **REMANDED** to the Kern County Superior
19 Court;
- 20 4. The Clerk of Court IS DIRECTED to close this action because this order
21 terminates the action in its entirety. IT IS SO ORDERED.

22 **Dated: October 21, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE