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

MFC TWIN BUILDERS LLC,)	1:12-cv-00219-AWI-SKO
)	
Plaintiff,)	ORDER ADOPTING FINDINGS
)	AND RECOMMENDATIONS ON
v.)	REQUESTS FOR ATTORNEYS’
)	FEEES AND SANCTIONS
HENRY DOLOSO FAJARDO; J K)	
DENTAL CLINIC; and DOES)	(Doc. 29)
1 through 10, inclusive,)	
)	
Defendants.)	

The Court refers the parties to previous orders for a complete chronology of the proceedings. On February 5, 2012, plaintiff MFC Twin Builders LLC (“MFC”) filed its complaint in Fresno County Superior Court against defendants Henry Doloso Fajardo (“Fajardo”), J K Dental Clinic (“Clinic”) and Does 1 through 10, inclusive, asserting one cause of action for unlawful detainer of real property located at 2100 E. Clinton Avenue, Fresno, California 93703. On February 14, 2012, Fajardo and Clinic removed MFC’s unlawful detainer action to this Court pursuant to 28 U.S.C. § 1441(b).

On March 14, 2012, MFC filed a motion to remand the action to state court pursuant to 28 U.S.C. § 1447(c), contending removal was improper because the Court lacked jurisdiction to hear the action in the absence of a federal question or complete diversity of citizenship between the parties. On March 14, 2012, MFC also filed a request for entry of default against Fajardo and Clinic

1 on ground the defendants failed to serve an answer or otherwise respond to MFC's unlawful detainer
2 complaint within the time prescribed by Federal Rule of Civil Procedure 81(c). In conjunction with
3 the motion to remand and request for entry of default, MFC filed two separate requests for judicial
4 notice pursuant to Federal Rule of Evidence 201. MFC further sought an award of attorneys' fees
5 and costs incurred in connection with the motion to remand. On April 10, 2012, MFC filed a motion
6 for sanctions against the defendants under Federal Rule of Civil Procedure 11, contending they
7 lacked an objectively reasonable basis to remove the action. On April 18, 2012, Fajardo filed his
8 opposition to MFC's motion to remand. MFC replied to Fajardo's opposition on April 25, 2012.

9 On May 9, 2012, the Magistrate Judge issued findings and recommendations (F&Rs)
10 recommending MFC's requests for judicial notice be granted, the defendants' defaults entered and
11 MFC's unlawful detainer action remanded to state court. On May 14, 2012, Fajardo filed objections
12 to the Magistrate Judge's F&Rs. On May 17, 2012, Fajardo and Clinic filed an ex parte "motion to
13 reconsider" the Magistrate Judge's F&Rs and requested a temporary restraining order staying MFC's
14 unlawful detainer action. On May 17, 2012, MFC filed its reply to Fajardo's objections. On May
15 25, 2012, the Court adopted the F&Rs in part. Pursuant to this adoption, the Court granted MFC's
16 requests for judicial notice, ordered the action be remanded to state court and denied Fajardo's and
17 Clinic's motion for reconsideration and request for a temporary restraining order. However, the
18 Court declined to adopt the F&R's recommendation Fajardo's and Clinic's defaults be entered.

19 On September 5, 2012, the Magistrate Judge issued further findings and recommendations
20 recommending (1) MFC's request for attorneys' fees be granted, pursuant to section 1447(c), in the
21 amount of \$7,906.50 against Fajardo and Clinic jointly and severally; (2) MFC's request for
22 sanctions be granted, pursuant to Rule 11(b), against defense counsel Lotfy Mrich in the amount
23 \$999, payable within 30 days to MFC's counsel; and (3) MFC's request for Rule 11(b) sanctions
24 against Fajardo and Clinic be denied. As to a magistrate judge's findings and recommendations, the
25 Court "shall make a de novo determination of those portions of the report or specified proposed
26 findings or recommendations to which objection is made" and "may accept, reject, or modify, in
27

1 whole or in part, the findings or recommendations[.]” 28 U.S.C. § 636(b)(1). The Court “may also
2 receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.* The
3 Court has conducted a de novo review of the case in accordance with the provisions of section
4 636(b)(1) and Local Rule 303. Having reviewed the pleadings of record and all competent and
5 admissible evidence submitted, the Court finds the Magistrate Judge’s September 5, 2012 findings
6 and recommendations to be supported by the record and proper analysis.

7
8 Accordingly, it is hereby ordered that:

- 9
- 10 1. The findings and recommendations issued September 5, 2012 are ADOPTED IN FULL;
 - 11 2. MFC’s request for attorneys’ fees is GRANTED in the amount of \$7,906.50 against Fajardo
12 and Clinic jointly and severally;
 - 13 3. MFC’s request for sanctions is GRANTED against defense counsel Lotfy Mrich in the
14 amount \$999.00, payable within 30 days to MFC’s counsel; and
 - 15 4. MFC’s request for sanctions against Fajardo and Clinic is DENIED.

16
17 IT IS SO ORDERED.

18 Dated: September 27, 2012



CHIEF UNITED STATES DISTRICT JUDGE