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

KELLY ANTHONY BREWER,
Plaintiff,

No. CIV.S-05-1094 DAD PS

v.

FINDINGS AND RECOMMENDATIONS

SUSAN ELLEN BREWER,
Defendant.

_____/

Plaintiff, proceeding pro se, has filed a notice of removal. That notice indicates that plaintiff is attempting to remove to this court an action brought by him in Butte County Superior Court, Brewer v. Brewer, Case No. FL019249. However, 28 U.S.C. § 1441(a) allows only "the defendant or the defendants" to remove a case from state court to federal court. See also Am. Int'l Underwriters (Philippines), Inc. v. Cont'l Ins. Co., 843 F.2d 1253, 1260 (9th Cir. 1988) ("The right to remove a state court case to federal court is clearly limited to defendants.").

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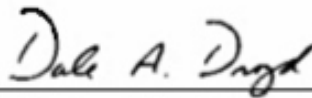
1 Accordingly, IT IS HEREBY RECOMMENDED that:

2 1. This state civil action be summarily remanded to the
3 Butte County Superior Court; and

4 2. The Clerk be directed to close this case.

5 These findings and recommendations are submitted to the
6 United States District Judge assigned to the case, pursuant to the
7 provisions of 28 U.S.C. § 636(b)(1). Within ten (10) days after
8 being served with these findings and recommendations, any party may
9 file written objections with the court and serve a copy on all
10 parties. Such a document should be captioned "Objections to
11 Magistrate Judge's Findings and Recommendations." The parties are
12 advised that failure to file objections within the specified time may
13 waive the right to appeal the District Court's order. See Martinez
14 v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: June 6, 2005.

16 

17 _____
18 DALE A. DRCZD
19 UNITED STATES MAGISTRATE JUDGE

19 DAD:th
20 DDad1\orders.prose\brewer.remand