

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

PAULIASI TUITAHI, and
OLIVIA TUITAHI, Husband and Wife,

Plaintiff,

No. CIV S-09-0129 JAM EFB PS

vs.

OPTION ONE MORTGAGE CORP.,
MTC FINANCIAL, dba TRUSTEE
CORPS, HSBC BANK USA, et al.,

Defendants.

ORDER TO SHOW CAUSE

On January 14, 2009, counsel for Sand Canyon Corporation, successor-in-interest to defendants Option One Mortgage Corp., and HSBC Bank USA, NA, filed a notice of removal of state court proceedings from Sacramento County Superior Court.¹ This case bears striking resemblance to another case filed in this court on January 6, 2009, Civ. No. 09-0035 GEB DAD.

////

¹ Although formally filed on January 14, 2009, defendant attempted to file this case on January 9, 2009. See Notice of Removal, Dckt. No. 1, at pp. 1-3. The case was lodged by the Clerk of Court pending defendant's payment of the filing fee. *Id.*, at p. 3. Upon such payment, the case was deemed filed effective January 14, 2009. Reliance on the formal filing date of this case may present timing problems associated with the deadline for removing a case from state court. See 28 U.S.C. § 1446 (removal must be made within 30 days of defendant's receipt of the initial pleading).

1 The cases reflect identical parties, and both were commenced upon notice of removing
2 Sacramento County Superior Court Case Number 34-2008-00022731. Although removed by
3 different defendants, the cases do not appear to present different issues. Moreover, Case No.
4 Civ. S-09-0035 GEB DAD proceeds on motions to dismiss filed by defendants, while the present
5 case has remained inactive. It is the initial impression of this court that the cases are duplicative
6 and that the instant, more recently filed case, should be closed.

7 Accordingly, it is hereby ORDERED that Mr. Michael R. Brooks, counsel for Sand
8 Canyon Corporation, successor-in-interest to defendants Option One Mortgage Corporation and
9 HSBC Bank USA, NA, shall FILE a written statement, within five (5) days of the filing date of
10 this order, informing the court whether the instant case is duplicative of No. Civ. S-09-0035
11 GEB DAD. Failure to timely file the statement shall be deemed a concession that the matter is
12 duplicative and will result in a recommendation of dismissal.

13 SO ORDERED.

14 DATED: February 3, 2009.

15 
16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24
25
26