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

STATE OF CALIFORNIA ex rel. )  
BARRETT R. BATES, qui tam )  
plaintiff, on behalf of real )  
parties in interest, ALAMEDA )  
COUNTY, et al., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
MORTGAGE ELECTRONIC REGISTRATION )  
SYSTEMS, INC., et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

2:10-cv-01429-GEB-CMK  
ORDER DENYING PLAINTIFF'S  
MOTION TO REMAND\*

Plaintiff relator Barrett Bates ("Bates") moves to remand this qui tam action to Lassen County Superior Court in the State of California from which Defendants removed it.

Plaintiff argues complete diversity is lacking because the State of California is a real party to the controversy, and states, as domestic sovereigns, are not citizens for purposes of diversity jurisdiction. (Mot. to Remand 4:25-5:5.) Defendant counters, arguing the State "is not a real party in interest, [and] it must be disregarded for purposes of determining diversity of citizenship." (Opp'n 1:14-15.)

\* This matter is deemed suitable for decision without oral argument. E.D. Cal. R. 230(g).

1           In qui tam actions, “[q]ui tam relators . . . sue on  
2 behalf of the government . . ., which is always the real party in  
3 interest.” U.S. ex rel. Hyatt v. Northrop Corp., 91 F.3d 1211,  
4 1217 n.8 (9th Cir. 1996). Under the CFCA, however, relators can  
5 sue on behalf of a state or a political subdivision. State ex rel.  
6 Harris v. PricewaterhouseCoopers, LLP, 39 Cal. 4th 1220, 1227  
7 (2006). Plaintiff alleges in his complaint that he brings this  
8 suit “on behalf of real parties in interest, the Counties of  
9 California.” (Compl. 2:15-16; Id. ¶ 3 (“The Counties are the real  
10 parties in interest.”).) Plaintiff also alleges Defendants failed  
11 to comply with “the *counties*’ recording requirements . . . and  
12 recorded false documents to initiate and pursue non-judicial  
13 foreclosures,” and in doing so “avoid[ed] payment of [recording]  
14 fees to the *Counties* and the *Cities* where the real estate is  
15 located.” (Compl. ¶ 54 (emphasis added).) Plaintiff has failed to  
16 point to any allegation in his complaint showing that he is also  
17 suing on behalf of the State. The “[C]ourt must disregard nominal  
18 or formal parties and rest jurisdiction only upon the citizenship  
19 of real parties to the controversy.” Navarro Sav. Ass’n v. Lee,  
20 446 U.S. 458, 461 (1980). Since Plaintiff’s allegations fail to  
21 show that the State is anything more than a nominal party, it is  
22 disregarded for determining whether complete diversity exists.

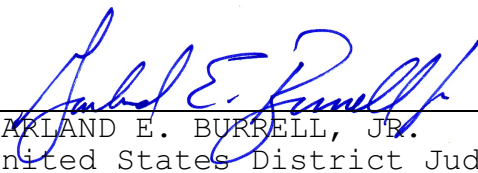
23           Plaintiff also argues complete diversity is lacking  
24 because under 28 U.S.C. § 1332, Defendant Wells Fargo is a citizen  
25 of California, its principal place of business. Defendants counter  
26 since Wells Fargo is a national banking association, 28 U.S.C. §  
27 1348, not § 1332, controls the determination of which state Wells  
28 Fargo is a citizen. Under 28 U.S.C. § 1348, “all national banking

1 associations shall . . . be deemed citizens of the States in which  
2 they are respectively located." Unlike § 1332, § 1348 does not  
3 state that a national banking association "shall be deemed to be a  
4 citizen of any State . . . where it has its principal place of  
5 business . . . ." 28 U.S.C. § 1332(c)(1). The Supreme Court has  
6 held that under § 1348, a national bank, is "located" "in the State  
7 designated in its articles of association as its main office."  
8 Wachovia Bank, N.A. v. Schmidt, 546 U.S. 303, 318 (2006). Wells  
9 Fargo's main office, as designated in its articles of association,  
10 is located in Sioux Falls, South Dakota. (Goldberg Decl. Ex. 1,  
11 Wells Fargo Articles of Association.) Accordingly, Wells Fargo is  
12 a citizen of South Dakota, and "Wells Fargo is not a citizen of  
13 California." DeLeon v. Wells Fargo Bank, N.A., 2010 WL 2382404, at  
14 \*2 (N.D. Cal. 2010); see also Wells Fargo Bank, N.A. v. WMR e-Pin,  
15 LLC, 2008 WL 5429134, at \*1 (D. Minn. 2008) ("Wells Fargo Bank is  
16 not a citizen of California, [and] the Court rejects Respondents'  
17 assertion that complete diversity of citizenship does not exist.").

18           Lastly, Plaintiff argues diversity is defeated because  
19 the unidentified Does include "corporations . . . headquartered in  
20 California." (Plt.'s Mot. to Remand 9:3.) However, "Congress  
21 obviously reached the conclusion that doe defendants should not  
22 defeat diversity jurisdiction[,]" Bryant v. Ford Motor Co., 886  
23 F.2d 1526, 1528 (9th Cir. 1987), when it amended the removal  
24 statute to include the following language: "For purposes of removal  
25 . . ., the citizenship of defendants sued under fictitious names  
26 shall be disregarded." 28 U.S.C. 1441(a). Therefore, the Doe  
27 defendants are disregarded for purposes of resolving Plaintiff's  
28 motion.

1                    Since Plaintiff has not shown that removal was improper,  
2 Plaintiff's motion to remand this action is DENIED.

3 Dated: July 21, 2010

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7 GARLAND E. BURBELL, JR.  
8 United States District Judge  
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