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

U.S. BANK NATIONAL ASSOCIATION
AS TRUSTEE,

Plaintiff,

No. CIV S-10-1623 LKK GGH PS

vs.

JAMIE GARCIA, et al.,

ORDER TO SHOW CAUSE AND APPEAR

Defendants.

_____/

Presently before this court is defendant Garcia’s notice of removal of an unlawful detainer action, and plaintiff’s ex parte application for remand and sanctions. Defendant has not filed a response to plaintiff’s application. After reviewing the application, the court now orders defendant Garcia to show cause why he should not be sanctioned as requested by plaintiff, and enjoined from further removing the state court action to any federal court. The latter proposed sanction is on the court’s own motion based on defendant’s apparent bad faith effort to delay the state court unlawful detainer case.

Rule 11 provides that a pleading filed with the court “certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,” it is not presented for an improper purpose, the claims are warranted by existing

1 law or an argument to modify the law that is non-frivolous, and the factual allegations will have
2 evidentiary support. Fed. R. Civ. P. 11(b). The court may, on its own initiative, order a party to
3 show cause why specified conduct does not violate Rule 11. Id., (c)(3).

4 A Rule 11 motion “must not be filed or be presented to the court if the challenged
5 paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21
6 days after service or within another time the court sets.” Id., (c)(2). As defendant has not had
7 sufficient time to correct the removal, he has the opportunity to do so before the scheduled
8 hearing.

9 Accordingly, IT IS ORDERED that:

10 1. Defendant Garcia shall file a response in writing by August 26, 2010, why he
11 should not be monetarily sanctioned and enjoined from further removing unlawful detainer
12 action denominated U.S. Bank NA v. Jamie Garcia,09UD10568, to any federal court.

13 2. Plaintiff’s motion for sanctions is set for hearing on September 2, 2010 at
14 10:00 a.m. in Courtroom #9.¹

15 3. Defendant Garcia shall personally appear at the sanctions hearing. Failure to
16 appear and respond will be considered contempt of court which will be cause for further
17 sanctions, including the possibility of incarceration.

18 DATED: August 13, 2010

/s/ Gregory G. Hollows

19 UNITED STATES MAGISTRATE JUDGE

20 GGH:076/U.S.Bank1623.osc.wpd

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¹ The application for remand will not be addressed at the hearing.