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

SANTIAGO L. NAVARRO,

Plaintiff,

No. CIV S-10-2848 JAM EFB PS

vs.

COUNTRYWIDE HOME LOANS, INC.;
BANK OF AMERICA HOME LOANS;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.;
and DOES 1 through 50;

ORDER TO SHOW CAUSE

Defendants.

_____ /
This case, in which plaintiff is proceeding *pro se*, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). *See* 28 U.S.C. § 636(b)(1). On October 21, 2010, Navarro removed the action to this court from Sacramento County Superior Court;¹ on October 21, 2010, Navarro filed an application to proceed *in forma pauperis*; and on November 1, 2010, Navarro filed a motion for a temporary restraining order. Dckt. Nos. 1, 2, 3.

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¹ Although the notice of removal states that Navarro is the “plaintiff” in this action, Navarro states in the notice of removal that the purported “defendants” filed a state law complaint against Navarro, which would indicate that Navarro is actually the defendant in this action. Dckt. No. 1.

1 On November 2, 2010, the undersigned issued an order requiring Navarro to (1) show
2 cause why this action should not be remanded to state court due to his failure to file a copy of the
3 state court complaint, and as a result, his failure to establish that this court has subject matter
4 jurisdiction over the action; and (2) file a copy of all of the pleadings, process and orders that
5 were served on him in the state action and inform the court whether the notice of removal was
6 served on the state court plaintiffs, as required by 28 U.S.C. § 1446(d).² Dckt. No. 5.

7 On November 17, 2010, Navarro filed a response to the order to show cause, stating that
8 the removal was proper and including a copy of a deed of trust and a substitution of trustee.
9 Dckt. No. 6. However, because Navarro has once again failed to file a copy of the state court
10 complaint, the undersigned cannot determine whether this court has subject matter jurisdiction
11 over the action. *See* 28 U.S.C. § 1447(c) (“If at any time before final judgment it appears that
12 the district court lacks subject matter jurisdiction, the case shall be remanded.”). Navarro also
13 failed to file any of the “pleadings, process and orders that were served on him in the state
14 action” and failed to inform the court whether the notice of removal was served on the state court
15 plaintiffs, as required by 28 U.S.C. § 1446(d). *See* 28 U.S.C. § 1446(a) (providing that
16 removing defendants “shall file in the district court of the United States for the district and
17 division within which such action is pending a notice of removal . . . , together with a copy of all
18 process, pleadings, and orders served upon such defendant or defendants in such action.”);
19 1446(d) (“Promptly after the filing of such notice of removal of a civil action the defendant or
20 defendants shall give written notice thereof to all adverse parties and shall file a copy of the
21 notice with the clerk of such State court, which shall effect the removal and the State court shall
22 proceed no further unless and until the case is remanded.”).

23 Accordingly, Navarro will once again be ordered to show cause why this action should
24 not be remanded to state court due to his failure to file a copy of all of the pleadings, process and

25
26 ² The order also deferred ruling on Navarro’s request to proceed *in forma pauperis* and
motion for a temporary restraining order in light of the removal defects. Dckt. No. 5 at 1-2, n.2.

1 orders that were served on him in the state action, and as a result, his failure to establish that this
2 court has subject matter jurisdiction over the action. Navarro will also once again be ordered to
3 file a copy all of the pleadings, process and orders that were served on him in the state action and
4 to inform the court whether the notice of removal was served on the state court plaintiffs, as
5 required by 28 U.S.C. § 1446(d). A failure to comply with this order may result in a
6 recommendation that this action be remanded to Sacramento County Superior Court.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. Navarro shall show cause, in writing, no later than December 8, 2010, why this action
9 should not be remanded to state court due to his failure to file a copy of the state court complaint,
10 and as a result, his failure to establish that this court has subject matter jurisdiction over the
11 action.

12 2. On or before December 8, 2010, Navarro shall also file a copy of all of the pleadings,
13 process and orders that were served on him in the state action and shall inform the court whether
14 the notice of removal was served on the state court plaintiffs, as required by 28 U.S.C. § 1446(d).

15 3. Failure of Navarro to file a response to the order to show cause or to otherwise
16 comply with this order may result in a recommendation that this action be remanded to
17 Sacramento County Superior Court.

18 SO ORDERED.

19 DATED: November 23, 2010.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE