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

US BANK NATIONAL ASSOCIATION
TRUSTEE FOR ADJUSTABLE RATE
MORTGAGE TRUST 2005-12,
ADJUSTABLE RATE MORTGAGE
BACKED PASS THROUGH CERTIFICATES,
SERIES 2005-12,

Plaintiff,

Case No. 2:13-cv-0645 MCE DAD PS

vs.

ALVARO MEJIA;
DOLORES MEJIA,

FINDINGS AND RECOMMENDATIONS

Defendants.

_____ /

By Notice of Removal filed April 3, 2013, this unlawful detainer action was removed from the Tuolumne County Superior Court by defendant Alvaro Mejia, who has paid the required filing fee and who is proceeding pro se. Accordingly, the matter has been referred to the undersigned for all purposes encompassed by Local Rule 302(c)(21).

At the outset, defendants are advised that one party proceeding pro se may not represent any other party proceeding pro se. See Local Rule 183. Thus, each document submitted for filing by defendants must bear the signatures of all defendants. In this regard, the

1 Notice of Removal should have been signed by each of the two defendants, but was signed only
2 by defendant Alvaro Mejia. See United Computer Systems, Inc. v. AT & T Corp., 298 F.3d 756,
3 762 (9th Cir. 2002) (“[T]he usual rule is that all defendants in an action in a state court must join
4 in a petition for removal . . .”).

5 Moreover, it is well established that the statutes governing removal jurisdiction
6 must be “strictly construed against removal.” Libhart v. Santa Monica Dairy Co., 592 F.2d 1062,
7 1064 (9th Cir. 1979) (citing Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108 (1941)).
8 See also Syngenta Crop Prot., Inc. v. Henson, 537 U.S. 28, 32 (2002); Provincial Gov’t of
9 Martindueque v. Placer Dome, Inc., 582 F.3d 1083, 1087 (9th Cir. 2009). “Federal jurisdiction
10 must be rejected if there is any doubt as to the right of removal in the first instance.” Gaus v.
11 Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992). ““The burden of establishing federal jurisdiction
12 falls on the party invoking removal.”” Harris v. Provident Life & Accident Ins. Co., 26 F.3d 930,
13 932 (9th Cir. 1994) (quoting Gould v. Mut. Life Ins. Co., 790 F.2d 769, 771 (9th Cir.1986)). See
14 also Provincial Gov’t of Martindueque, 582 F.3d at 1087. In addition, “the existence of federal
15 jurisdiction depends solely on the plaintiff’s claims for relief and not on anticipated defenses to
16 those claims.” ARCO Envtl. Remediation, LLC v. Dep’t of Health & Envtl. Quality, 213 F.3d
17 1108, 1113 (9th Cir. 2000). Where it appears, as it does here, that the district court lacks subject
18 matter jurisdiction over a removed case, “the case shall be remanded.” 28 U.S.C. § 1447(c).

19 In removing this action, defendant Alvaro Mejia alleges that “Federal question
20 jurisdiction exists because Defendants’ demurrer, a pleading depend (sic) on the determination of
21 Defendants’ rights and Plaintiff’s duties under federal law.” (Notice of Removal (Doc. No. 1) at
22 3.) Specifically, defendant Alvaro Mejia alleges that plaintiff has “failed to comply” with 12
23 U.S.C. § 5220. (Id. at 2.)

24 It is evident, however, from a reading of plaintiff’s complaint that this is nothing
25 more than a garden-variety unlawful detainer action filed against the former owner of real
26 property located in California and that it is based wholly on California law. As such, the

1 complaint does not involve any “claim or right arising under the Constitution, treaties or laws of
2 the United States” that would have permitted plaintiff to file this action originally in federal
3 court. See 28 U.S.C. § 1441(b). Moreover, it is evident from defendant Alvaro Mejia’s Notice
4 of Removal that any federal claims in this action arise solely from defendants’ own affirmative
5 defenses and not from the plaintiff’s unlawful detainer complaint. See ARCO Env’tl.
6 Remediation, LLC, 213 F.3d at 1113. Thus, defendant Alvaro Mejia has failed to meet his
7 burden of establishing a basis for federal jurisdiction over this action.

8 Accordingly, IT IS RECOMMENDED that this action be summarily remanded to
9 the Tuolumne County Superior Court and that this case be closed.

10 These findings and recommendations will be submitted to the United States
11 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
12 fourteen days after being served with these findings and recommendations, any party may file
13 written objections with the court and serve a copy on all parties. A document presenting
14 objections should be titled “Objections to Magistrate Judge’s Findings and Recommendations.”
15 Any reply to objections shall be filed and served within seven days after service of the objections.
16 The parties are advised that failure to file objections within the specified time may waive the
17 right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18 DATED: April 4, 2013.

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21 _____
22 DALE A. DROZD
23 UNITED STATES MAGISTRATE JUDGE

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