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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN BROOKS, LAURA BROOKS,

Plaintiffs,

v.

FCI LENDER SERVICES, INC; MDJ
PROPERTIES, LLC; BUCKS
FINANCIAL, LLC; SN SERVICING
CORPORATION; MADISON
MANAGEMENT SERVICES, LLC;
CALIFORNIA TD SPECIALISTS;
HOMECOMING FINANCIAL, LLC;
OCWEN LOAN SERVICING; DOES 1
through 50, inclusive,

Defendants.

No. 2:16-cv-02598-KJM-KJN

ORDER

This breach of contract action was removed to federal court initially because it included three federal claims. Those federal claims have since been dismissed. Plaintiffs now move to remand the case back to state court. Mot., ECF No. 53. One former defendant and one current defendant have filed oppositions. ECF Nos. 56-57. The court submitted the motion without a hearing on October 16, 2017. Min. Order, ECF No. 65. As explained below, plaintiffs' motion to remand is GRANTED.

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1 I. BACKGROUND

2 This case stems from a contract dispute over amounts owed on a note secured by
3 real property in Roseville, California. Compl., ECF No. 1-1. Plaintiffs are the property owners.
4 *Id.* In October 2016, plaintiffs brought a quiet title action in state court against the following
5 entities that had an alleged interest in the property: FCI Lender Services, Inc.; SN Servicing
6 Corporation; Bucks Financial V, LLC; California TD Specialists; MDJ Properties, LLC; Madison
7 Management Services, LLC; Homecomings Financial; and Ocwen Loan Servicing. *Id.* Beyond
8 seeking quiet title, plaintiffs brought state-law claims for breach of contract, common law fraud
9 and violations of California Business and Professions Code section 17200. *Id.* Plaintiffs also
10 originally brought three federal claims: Violation of a bankruptcy discharge injunction under 11
11 U.S.C. § 524; violation of the Fair Debt Collections Practices Act, 15 U.S.C. §§ 1601, 1692; and
12 violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681.

13 Invoking federal question jurisdiction based on the latter three claims, defendant
14 FCI Lender removed the case to federal court. Removal Notice, ECF No. 1 (filed Oct. 31, 2016).
15 FCI Lender then moved to dismiss. ECF No. 8. The court dismissed the three federal claims
16 against FCI Lender only, with leave to amend as to one of the three claims. Order Jan. 23, 2017,
17 ECF No. 31 at 22. The court allowed the federal claims to continue against other defendants. On
18 June 29, 2017, plaintiffs filed the operative, first amended complaint. First Am. Compl. (“FAC”),
19 ECF No. 46 (filed June 29, 2017). The amended complaint names the same defendants, *id.* ¶¶ 2-
20 9, but abandons all federal claims and asserts only state law claims. Since then, plaintiffs have
21 dismissed defendants FCI Servicer and Cal TD Specialists. *See* Notice of Voluntary Dismissals,
22 ECF Nos. 73, 74. The dismissed defendants are relevant to this remand order, as they were
23 named in the initial complaint. *See Sparta Surgical Corp. v. NASD*, 159 F.3d 1209, 1213 (9th
24 Cir. 1998) (explaining courts analyze the propriety of removal based on pleadings at time of
25 removal, without referencing subsequent changes), *overruled on other grounds by Merrill Lynch,*
26 *Pierce, Fenner & Smith Inc. v. Manning*, 136 S. Ct. 1562, 1567 n.1 (2016).

27 Plaintiffs now argue removal was improper and seek to remand the case to state
28 court. Mot. at 4-7. FCI Lender and SN Servicing filed oppositions. FCI Opp’n, ECF No. 56; SN

1 Opp'n, ECF No. 57. Although FCI Lender has since been dismissed, its opposition brief informs
2 the court's remand decision.

3 II. ANALYSIS

4 A. Removal

5 When a case “of which the district courts of the United States have original
6 jurisdiction” is initially brought in state court, a defendant may remove it to federal court. 28
7 U.S.C. § 1441(a). There are two primary bases for federal subject matter jurisdiction: (1) 28
8 U.S.C. § 1331, which grants district courts federal question jurisdiction over “all civil actions
9 arising under the Constitution, laws, or treaties of the United States”; and (2) 28 U.S.C. § 1332,
10 which grants district courts diversity-of-citizenship jurisdiction where the amount in controversy
11 exceeds \$75,000 and the parties are in complete diversity.

12 Here, removal was proper under § 1331, as plaintiffs initially brought federal
13 statutory claims and a bankruptcy claim. Removal Notice at 2-4. Although plaintiffs now argue
14 this case never presented a substantial federal question and therefore should never have been
15 removed, they admit their complaint included these three federal claims. Mot. at 5. In fact,
16 plaintiffs' operative complaint alleges, “this Court at [the time of removal] had original
17 jurisdiction pursuant to 28 U.S.C. § 1331.” FAC ¶ 13.

18 Plaintiffs' decision to abandon their federal claims does not retroactively
19 invalidate removal. “[T]he propriety of removal is determined solely on the basis of the
20 pleadings filed in state court.” *Williams v. Costco Wholesale Corp.*, 471 F.3d 975, 976 (9th Cir.
21 2006) (citations omitted). “[P]ost-removal amendments to the pleadings cannot affect whether a
22 case is removable[.]” *Id.*; *Sparta*, 159 F.3d at 1213 (“Jurisdiction must be analyzed on the basis
23 of the pleadings filed at the time of removal without reference to subsequent amendments.”).

24 B. Retaining Jurisdiction

25 1. Supplemental Jurisdiction

26 Although removal was proper, now that the federal basis for removal is absent the
27 court may decline to exercise jurisdiction over the remaining state law claims. *See* 28 U.S.C.
28 § 1367(c) (explaining federal district courts may decline to exercise supplemental jurisdiction

1 over state claims if the court has dismissed all claims over which it has original jurisdiction). In
2 deciding whether to exercise supplemental jurisdiction, courts consider “the values of judicial
3 economy, convenience, fairness, and comity[.]” but ultimately apply a strong presumption against
4 the exercise of supplemental jurisdiction once federal claims have been dismissed. *Carnegie-*
5 *Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988).

6 Here, plaintiffs argue against the court’s exercise of supplemental jurisdiction
7 because there “are no remaining federal questions; nor are there any facts which could
8 conceivably give rise to federal questions in the future.” Mot. at 7. The timing of plaintiffs’
9 remand motion is not ideal, as the case has been pending in this court for over a year and the court
10 has already ruled on the merits of one dismissal motion and granted plaintiff multiple extensions
11 to file an amended complaint. Nonetheless, the case is in the pleading stages and now exclusively
12 comprises state-law claims. Considering *Carnegie-Mellon’s* strong presumption against the
13 exercise of supplemental jurisdiction in this scenario, the court DECLINES to exercise
14 supplemental jurisdiction.

15 2. Diversity Jurisdiction

16 Because post-removal pleadings may raise additional jurisdictional hooks, the
17 court’s jurisdiction here could continue to adhere if the operative complaint invokes diversity
18 jurisdiction under 28 U.S.C. § 1332. *Williams*, 471 F.3d at 977 (finding jurisdiction proper
19 where, although federal question claims in the initial complaint had been dismissed, “the
20 amended complaint presented an independent jurisdictional basis for the state law claims, namely
21 diversity.”). This rule comports with the well-established proposition that a district court
22 presented with a case invoking its jurisdiction has “a virtually unflinching obligation to exercise
23 the jurisdiction conferred upon [it] by the coordinate branches of government[.]” *Id.* (citation and
24 quotation marks omitted).

25 Diversity jurisdiction is proper only where the amount in controversy exceeds
26 \$75,000 and the parties are completely diverse in their citizenship. 28 U.S.C. § 1332. Here,
27 diversity of citizenship is unclear. Plaintiffs are California citizens, and they allege that every
28 named defendant is also a California citizen. FAC ¶¶ 2-9. Even if the court were to disregard the

1 citizenship of now-dismissed defendants FCI Lender and California TD Specialists, diversity
2 would be unclear because existing defendants SN Servicing and Bucks Financial, LLC are also
3 alleged to be California citizens. FAC ¶¶ 4-5. Neither FCI Lender nor SN Servicing have
4 rebutted these allegations. Indeed, FCI Lender concedes “the identity and citizenship of
5 [Bucks’s] members is not yet known.” FCI Opp’n at 7. Although FCI Lender contends, without
6 support, that SN Servicing is actually a citizen of Alaska and Louisiana, *id.*, SN Servicing does
7 not make this argument itself. *See generally* SN Opp’n.

8 Where a court adjudicating a remand motion faces jurisdictional doubt, the case
9 “should be remanded to state court.” *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089,
10 1090 (9th Cir. 2003) (per curiam). With no clear basis to exercise jurisdiction, the court
11 GRANTS plaintiffs’ motion to remand.

12 III. CONCLUSION

13 Plaintiffs’ motion to remand is GRANTED. Considering the initial removal was
14 proper, no attorneys’ fees shall be awarded in connection with this motion. *Cf. Ansley v.*
15 *Ameriquest Mortg. Co.*, 340 F.3d 858, 864 (9th Cir. 2003) (“A court may award attorney fees
16 when removal is wrong as a matter of law.”) (citation omitted).

17 This resolves ECF No. 53. The Clerk of the Court is ordered to close this case.

18 IT IS SO ORDERED.

19 DATED: January 19, 2018.

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22 UNITED STATES DISTRICT JUDGE
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