

United States District Court
For the Northern District of California

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

CRAIG JOHANN DOUGLAS,

No. C-09-0183 MMC

Plaintiff,

ORDER TO SHOW CAUSE

v.

CITY AND COUNTY OF SAN FRANCISCO,
et al.,

Defendants.

Before the Court is defendant City and County of San Francisco's ("City") Notice of Removal, filed January 14, 2009, wherein the City asserts the Court has subject matter jurisdiction over the instant action, for the reason that plaintiff's complaint includes a claim titled "Constitutional Violations," in which plaintiff alleges the City "violated the constitutional rights" of plaintiff. (See Notice of Removal at 2:13, 2:17-18; see also Complaint at 8:6-7, ¶ 40.) The City has the burden of establishing removal is proper. See *Gaus v. Miles*, 980 F.2d 564, 566 (9th Cir. 1992). Here, the City has failed to show plaintiff intended his use of the term "constitutional" to be a reference to the federal Constitution, as opposed to the state Constitution.


Given that the five other claims alleged in the complaint are brought under state law, and the claim in question is the sixth and final claim alleged in a series of six claims, as well as plaintiff's decision to file his complaint in state court, the Court hereby ORDERS the City

1 TO SHOW CAUSE, in writing and no later than March 6, 2009, why the above-titled action
2 should not be remanded to state court. If plaintiff wishes to reply to the City's response to
3 the Order to Show Cause, plaintiff shall do so no later than March 20, 2009.

4 If the City is unable to meet its burden of showing plaintiff has brought his Sixth
5 Claim for Relief under the federal Constitution, or, alternatively, if plaintiff states his
6 intention was to bring said claim solely under the California Constitution, the Court will
7 remand the action to the court in which the complaint was filed, specifically, the Superior
8 Court of the State of California in and for the County of San Francisco.

9 **IT IS SO ORDERED.**

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11 Dated: February 20, 2009


MAXINE M. CHESNEY
United States District Judge

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