

1 ****E-filed 8/18/11****

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7 IN THE UNITED STATES DISTRICT COURT

8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 SAN FRANCISCO DIVISION

10 STEVEN J. ZAMORA,

No. C 11-3703 RS

11 Plaintiff,

ORDER RE PENDING MOTIONS

12 v.

13 NATIONAL CITY MORTGAGE CO, et al.,

14 Defendants.

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17 Plaintiff Steven J. Zamora, appearing *in pro se*, has filed a motion to remand this action to

18 state court, accompanied by an “ex parte application,” seeking to have the matter resolved on

19 shortened time in advance of his deadline to oppose the pending motions to dismiss, which are

20 presently set to be heard on September 29, 2011. Defendants correctly point out that plaintiff’s “ex

21 parte application” more properly should be construed as a motion for an order shortening time,

22 brought under Civil Local 6-3, and that it does not fully comply with the provisions of that rule as to

23 the points such motions should address.

24 Nevertheless, it does appear appropriate to resolve the remand issue prior to proceeding with

25 the motions to dismiss. While defendants are correct that plaintiff likely will have to respond to

26 similar arguments on demurrer if the matter is remanded, that does not warrant completing the

27 briefing of *these* motions while jurisdiction remains in doubt.

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The notice of removal states that all defendants known to have been served consent to the removal, but no joinders by such other defendants have been filed. Additionally, plaintiff asserts that other defendants had in fact been served at the time of the notice of removal, and those defendants have not filed joinders either. Thus, while the notice of removal was not necessarily defective on its face, it appears that a basis for removal jurisdiction has not been established at this juncture. Whether joinders would be timely if filed now raises a separate question.

Accordingly, good cause appearing, the hearing and briefing schedule for the motions to dismiss is hereby vacated. No later than September 1, 2011, defendants shall file any opposition to plaintiff's motion to remand. No later than September 8, 2011, plaintiff may file a reply. The motion to remand will then be taken under submission without oral argument, pursuant to Civil Local Rule 7-1(b). In the event the motion is denied, the court will set a new hearing date and briefing schedule for the motions to dismiss.

IT IS SO ORDERED.

Dated: 8/18/11



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE