

United States District Court

For the Northern District of California

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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 WELL'S FARGO BANK, N.A.,

No. C 11-05130 WHA

11 Plaintiff,

12 v.

13 **ORDER TO SHOW CAUSE AND
GRANTING IN FORMA PAUPERIS**14 ALBERTO B. FUENTES, HELEN
BUSTAMANTE, and JIMMY LOPEZ,

15 Defendants.

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17 On October 19, 2011, defendants Jimmy Lopez and Helen Bustamante removed this
18 unlawful detainer action from the Superior Court of California, Placer County, to federal district
19 court. Each filed an application to proceed in forma pauperis.20 This unlawful detainer action arises under California Code of Civil Procedure Section
21 1161a, not federal law. There does not appear to be any basis for diversity jurisdiction, as the
22 complaint states the amount in controversy does not exceed \$10,000. As such, it appears this
23 Court lacks subject-matter jurisdiction and the case should be remanded to state court.
24 Accordingly, defendants Lopez and Bustamante are hereby **ORDERED TO SHOW CAUSE** why this
25 action should not be remanded to state court. Defendants must file a written response by
26 **JANUARY 3, 2012**, and address the basis for this Court's jurisdiction over this unlawful detainer
27 action. Defendants should be mindful that an anticipated federal defense is not sufficient to
28 confer jurisdiction. *Franchise Tax Bd. of Cal. v. Constr. Laborers Vacation Trust for S. Cal.*, 463
U.S. 1, 10 (1983).

1 Defendants Lopez and Bustamante each submitted an application to proceed in forma
2 pauperis (Dkt. Nos. 2 and 3). Pursuant to 28 U.S.C. 1915(a), a court may authorize a party to
3 pursue an action in federal court without prepayment of fees or security if the party submits an
4 affidavit showing that it is unable to pay such fees or provide security. Having reviewed
5 defendants' applications to proceed in forma pauperis, it appears neither defendant is able to pay
6 the fee required of each of them. Therefore, defendants Lopez and Bustamante's respective
7 applications to proceed in forma pauperis are hereby **GRANTED**.

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9 **IT IS SO ORDERED.**

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11 Dated: December 12, 2011.

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14 WILLIAM ALSUP
15 UNITED STATES DISTRICT JUDGE

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