

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

THE BANK OF NEW YORK MELLON FKA,

No. C 11-5373 SI

Plaintiff,

v.

**ORDER TO SHOW CAUSE WHY CASE
SHOULD NOT BE REMANDED TO
STATE COURT BASED ON LACK OF
FEDERAL JURISDICTION**

DEANNE BREWER, *et al.*,

Defendants.

On November 7, 2011, *pro se* defendant Deanne Brewer removed this unlawful detainer action from state court, asserting diversity jurisdiction as the basis for removal. From the face of the complaint, this Court lacks jurisdiction. There are no federal claims in the lawsuit. Where there is no federal question jurisdiction, an action is not removable on the basis of diversity of citizenship if the defendant is a citizen of the state in which the action was brought. *See* 28 U.S.C. § 1441(a), (b). Here, the Notice of Removal states that both defendants are California residents, and thus removal was improper.

Accordingly, **defendants are ORDERED TO SHOW CAUSE in writing no later than 2:00 pm on January 24, 2012 why this case should not be remanded to the Superior Court for the County of Santa Clara.**¹ If defendants assert that removal was proper and this Court has jurisdiction, defendants must specifically identify the basis for jurisdiction.

IT IS SO ORDERED.

Dated: January 10, 2012



SUSAN ILLSTON
United States District Judge

¹ Plaintiff has filed a motion to remand this case to state court for lack of jurisdiction, and that motion is scheduled for a hearing on February 17, 2012. The Court VACATES the hearing on that motion. In lieu of filing an opposition to that motion, defendants shall file a response to this Court's Order to Show Cause.