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E-Filed 12/15/11

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

No. C 11-05419 RS

Plaintiff,

ORDER

v.

CYNTHIA WALKER,

Defendant.

_____ /

This action was filed as an unlawful detainer proceeding in Contra Costa Superior Court. Defendant removed, contending that removal jurisdiction exists on the basis of diversity of citizenship. Even assuming, however, that defendant’s contentions as to the parties’ respective citizenships and the amount in controversy are supportable, defendants are citizens of California. The removal therefore contravenes the provision of 28 U.S.C. § 1441(b) that precludes removal where any defendant is a citizen of the state in which the action was brought (the “no local defendant rule”). Removal in violation of the no local defendant rule, however, is a waivable defect, which, absent objection by the plaintiff, does not preclude the federal court from exercising jurisdiction. Accordingly, in the event plaintiff does not intend to waive the no local defendant rule, it shall promptly file a motion for remand of this action.

IT IS SO ORDERED.

No. C
ORDER

United States District Court
For the Northern District of California

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Dated: 12/15/11



RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE