

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

CALIFORNIA HOUSING  
FINANCE AGENCY,  
  
Plaintiff,

No. C 12-00105 WHA

**ORDER REMANDING ACTION**

v.

CECIL DARYL BROWNING, VICKIE  
LYNN BROWNING, and DAVID  
HERRERA,  
  
Defendants.

On January 5, 2012, *pro se* defendant David Herrera removed this unlawful detainer action to federal court on the basis of federal question jurisdiction. The complaint alleges a violation of California Code of Civil Procedure Section 1161a. There is no question of federal law. Plaintiff California Housing Finance Agency filed a motion to remand on March 29, 2012. No opposition was filed by defendants. On April 13, 2012, an order to show cause issued, stating the motion to remand may be granted if no opposition was filed. Defendants failed to respond to the order to show cause. A case management conference was scheduled for April 5, 2012. No one appeared except a substitute attorney for plaintiff's attorney. An order to show cause issued ordering defendants to appear for a hearing on May 3, 2012 to show cause why they should not be held in contempt for failing to attend the conference. That same order continued the case management conference to May 3. No one appeared for the case management conference set for May 3.

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“Removal statutes are strictly construed against removal.” *Luther v. Countrywide Home Loans Servicing , LP*, 533 F.3d 1031, 1034 (9th Cir. 2008). Defendants have failed to oppose the motion to remand and show that removal of this unlawful detainer action is proper. The motion to remand the action to state court is **GRANTED**. The Clerk shall remand this action to the Superior Court of California, County of Contra Costa.

Plaintiff California Housing Finance Agency seeks attorney’s fees and costs incurred in filing the motion to remand in the amount of \$2,000. Defendants are all proceeding *pro se* and defendant David Herrera has been granted in forma pauperis status. While the delay in the case due to the pending motion to remand is regrettable, no attorney’s fees will be awarded against our *pro se* defendants, at least one of whom is indigent. Moreover, plaintiff’s attorney failed to attend both the initial and rescheduled case management conference. The request for attorney’s fees is **DENIED**.

**IT IS SO ORDERED.**

Dated: May 4, 2012.



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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE