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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LOUDEN, LLC,

No. C-12-2638 EMC (LB)

Plaintiff,

v.

**ORDER ADOPTING IN PART AND  
REJECTING IN PART REPORT AND  
RECOMMENDATION; AND  
REMANDING TO STATE COURT**

IGNACIO J. PAJARILLO, *et al.*,

Defendants.

**(Docket Nos. 3, 6, 11, 14)**

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Plaintiff Louden, LLC initiated this unlawful detainer action in state court. Defendants Ignacio J. Pajarillo and Norma Lopez subsequently removed the case to federal court. At the time that they removed the case, Ms. Lopez also filed a motion to proceed in forma pauperis. *See* Docket No. 3 (motion). Shortly thereafter, Louden made an appearance in the case and filed a motion to remand based on a lack of subject matter jurisdiction. *See* Docket No. 6 (motion). Judge Beeler prepared a report and recommendation on the motion to remand in which she recommended that the motion be granted because there was neither federal question nor diversity jurisdiction. *See* Docket No. 14 (report and recommendation). Judge Beeler also recommended that Ms. Lopez's motion to proceed in forma pauperis be denied as moot. Finally, in her report, Judge Beeler noted that objections to the report had to be filed within fourteen days after the party was served with a copy. No party filed an objection to Judge Beeler's report and recommendation.

Having reviewed Judge Beeler's report and recommendation, the Court hereby **ADOPTS** it in part and **REJECTS** it in part. More specifically, the Court adopts Judge Beeler's

1 recommendation that the case be remanded for lack of subject matter jurisdiction. Her analysis is  
2 thorough and well reasoned on this issue.

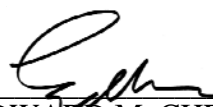
3         The Court does not adopt Judge Beeler’s recommendation to the extent she recommended  
4 that Ms. Lopez’s motion to proceed in forma pauperis be denied as moot. Because Ms. Lopez might  
5 be held accountable for at least the filing fee, the Court concludes that her motion for relief is not  
6 moot. Having reviewed Ms. Lopez’s financial affidavit, the Court concludes that she has adequately  
7 established that she meets the economic eligibility requirement of 28 U.S.C. § 1915(a) and,  
8 accordingly, grants her application to proceed in forma pauperis. The Court, however, still remands  
9 the case because of the lack of subject matter jurisdiction.

10         The Clerk of the Court is directed to remand in accordance with this opinion and close the  
11 file in this case.

12         This order disposes of Docket Nos. 3, 6, 11, and 14.<sup>1</sup>

14         IT IS SO ORDERED.

16         Dated: August 2, 2012

  
EDWARD M. CHEN  
United States District Judge

26 \_\_\_\_\_  
27         <sup>1</sup> In Docket No. 11, Loudon asked that its motion to remand be heard on shortened time.  
28 Loudon argued that “an order shortening time is necessary to effectuate the summary intent of  
California’s unlawful detainer statutes.” Docket No. 11 (Ex Parte App. at 2). Loudon’s motion is  
now moot in light of the Court’s ruling herein.

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 LOUDEN LLC,

5 Plaintiff,

6 v.

7 IGNACIO PAJARILLO et al,

8 Defendant.

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Case Number: CV12-02638 EMC

**CERTIFICATE OF SERVICE**

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
10 Court, Northern District of California.

11 That on August 2, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
14 located in the Clerk's office.

14 Ignacio J. Pajarillo  
124 Valley Oak Lane  
15 Vallejo, CA 94591

16 Norma Lopez  
17 124 Valley Oak Lane  
18 Vallejo, CA 94591

19 Dated: August 2, 2012



20 Richard W. Wieking, Clerk  
21 By: Betty Lee, Deputy Clerk