

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DAWN AMORA AND CARLOS MORA,

Plaintiffs,

v.

HOMESALES INC, et al.,

Defendants.

---

No. C 12-03210 JSW

**ORDER OF DISMISSAL  
WITHOUT PREJUDICE FOR  
LACK OF SUBJECT MATTER  
JURISDICTION**

On June 20, 2012, Plaintiffs filed a Complaint in this action, in which they allege that this Court has diversity jurisdiction. On July 10, 2012, Plaintiffs filed an *ex parte* application for a temporary restraining order, in which they ask this Court to prevent Defendants from evicting them. According to the *ex parte* application, an unlawful detainer action is pending in state court, and that court is scheduled to hear a final judgment on July 13, 2012.

Federal courts are courts of limited jurisdiction. *See, e.g., Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Federal courts are under a duty to raise and decide issues of subject matter jurisdiction *sua sponte* at any time it appears subject matter jurisdiction may be lacking. Fed. R. Civ. P. 12(h)(3); *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983). This Court only has original subject matter jurisdiction in diversity cases where the matter in controversy exceeds the sum of \$75,000 and is between citizens of different states. 28 U.S.C. § 1332. No plaintiff can be a citizen of the same state as any of the defendants. *Strawbridge v. Curtiss*, 7 U.S. 267 (1806).

//

1 According to Plaintiffs' Complaint, Plaintiffs are residents of California. Defendant  
2 California Reconveyance Company also is a resident of California. Therefore, based on the  
3 face of the Complaint, the parties are not completely diverse. Plaintiffs do not allege any other  
4 basis for federal jurisdiction.<sup>1</sup>

5 Accordingly, because the Court lacks subject matter jurisdiction over this action, the  
6 Court must dismiss this case. However, this ruling is without prejudice to Plaintiffs refileing  
7 their claims in state court.

8 **IT IS SO ORDERED.**

9  
10 Dated: July 11, 2012

  
11 \_\_\_\_\_  
12 JEFFREY S. WHITE  
13 UNITED STATES DISTRICT JUDGE  
14  
15  
16

17 \_\_\_\_\_  
18 <sup>1</sup> Although Plaintiffs include a cause of action pursuant to the Declaratory  
19 Judgment Act, that act does not provide an independent basis for jurisdiction. *See, e.g.,*  
20 *Countrywide Home Loans, Inc. v. Mortgage Guaranty Insurance Corp.*, 642 F.3d 849, 853  
(9th Cir. 2011) (“the DJA gave district courts the discretion to provide a type of relief that  
was previously unavailable, but did not impliedly repeal[ ] or modif[y]’ the general  
conditions necessary for federal adjudication (e.g., a federal question or diversity of  
citizenship)”) (quoting *Skelly Oil Co. v. Phillips Petroleum Co.*, 339 U.S.667, 672 (1950)).

21 Moreover, even if the Court has subject matter jurisdiction, and even if Plaintiffs had  
22 demonstrated a likelihood of success on the merits, it is unlikely that the Court could grant  
23 Plaintiffs the relief they request. Pursuant to the Anti-Injunction Act, a federal court “may  
24 not grant an injunction to stay proceedings in a State court except as expressly authorized by  
25 Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its  
26 judgments.” 28 U.S.C. § 2283. “The limitations expressed in the Anti-Injunction Act ‘rest[]  
27 on the fundamental constitutional independence of the States and their courts,’ *Atlantic Coast*  
28 *Line R.R. Co. v. Bhd. of Locomotive Eng’rs*, 398 U.S. 281, 287 (1970), and reflect  
‘Congress’ considered judgment as to how to balance the tensions inherent in such a system,’  
*Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 146 (1988).” *Sandpiper Village Condo.*  
*Ass’n v. Louisiana-Pacific Corp.*, 428 F.3d 831, 842 (9th Cir. 2005). “[T]he Act is designed  
to prevent friction between federal and state courts by barring federal intervention in all but  
the narrowest of circumstances.” *Id.* Although there are exceptions to the Anti-Injunction  
Act, “the court cannot discern ... how the request to simply stay the unlawful detainer action  
falls into one of the exceptions listed in the Act.” *Sato v. Wachovia Mortgage, FSB*, 2012  
WL 368423, \*2 (N.D. Cal. Feb. 3, 2012).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

DAWN AMORA AND CARLOS MORA  
et al,

Case Number: CV12-03210 JSW

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

HOMESALES INC et al,

Defendant.


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

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

Carlos Mora  
26801 Ridge Road  
Willits, CA 95490

Dawn Amora  
26801 Ridge Road  
Willits, CA 95490

Dated: July 11, 2012

  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk