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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CALNEVA MANAGEMENT, INC.,
Plaintiff,
v.
ANDREA WHITE and ADAM WHITE,
Defendants.

Case No. 12-cv-05763 NC
ORDER TO SHOW CAUSE
Re: Dkt. No. 1

17 Defendants Andrea White and Adam White filed a notice of removal alleging that this
18 Court has federal question jurisdiction under 28 U.S.C. § 1331. Plaintiff Calneva alleges
19 only one cause of action in its complaint, unlawful detainer, which arises exclusively out of
20 state law. Accordingly, defendants must show cause why removal is proper by November
21 28, 2012 at 5:00 p.m. Also by November 28, the parties must consent or decline to the
22 jurisdiction of a United States Magistrate Judge.

23 **Subject Matter Jurisdiction**

24 A defendant may remove an action filed in state court to federal court if the federal
25 court would have original subject matter jurisdiction over the action. 28 U.S.C. § 1441.
26 Federal courts are courts of limited jurisdiction and are presumptively without jurisdiction.
27 *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Federal courts have
28 original jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of

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1 the United States,” 28 U.S.C. § 1331, and over “all civil actions where the matter in
2 controversy exceeds the sum or value of \$75,000 . . . and is between citizens of different
3 states,” 28 U.S.C. § 1332(a). In the absence of diversity jurisdiction, removal to federal
4 court is only proper when “a federal question is presented on the face of the plaintiff’s
5 properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). A
6 federal court may dismiss an action on its own motion if it finds that it lacks subject matter
7 jurisdiction over the action. *Fiedler v. Clark*, 714 F.2d 77, 78-79 (9th Cir. 1983); see also
8 Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter
9 jurisdiction, the court must dismiss the action.”).

10 Here, defendants allege in their notice of removal that Calneva violated the Protecting
11 Tenants at Foreclosure Act of 2009 (“PTFA”), codified at 12 U.S.C. § 5201, et seq., which
12 raises an issue of federal law. This is insufficient as a basis for removal, however, for two
13 reasons. First, claims pled by the defendant do not confer federal question subject matter
14 jurisdiction; and second, the PTFA does not confer a private right of action. See, e.g.,
15 *Deutsche Bank Nat. Trust Co. v. Eaddy*, 12-cv-01845 YGR, 2012 WL 4173987, at *1 (N.D.
16 Cal. Sept. 18, 2012) (“The PTFA is intended to be used for protection in state court but does
17 not create a private right of action or a basis for federal subject matter jurisdiction.”).
18 Thus, defendants have not met their burden to show that removal is proper.

19 For additional guidance, defendants may refer to the Court’s Pro Se Handbook,
20 available on the Court’s website at <http://www.cand.uscourts.gov/prosehandbook>, or
21 contact the Legal Help Center, which provides information and limited-scope legal advice
22 to pro se litigants in civil cases. The Legal Help Center requires an appointment, which can
23 be made by calling (415) 782-9000 x8657.

24 IT IS SO ORDERED.

25 Date: November 14, 2012


Nathanael M. Cousins
United States Magistrate Judge