

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

GMAC MORTGAGE, LLC FKA GMAC
MORTGAGE CORPORATION,

No. C 13-865 MMC

Plaintiff,

v.

JOSE AMAYA, et al.,

Defendants.

**ORDER GRANTING DEFENDANTS'
APPLICATIONS TO PROCEED IN
FORMA PAUPERIS; REMANDING
ACTION**

_____ /

Before the Court is the "Notice of Removal of Action Under 28 U.S.C. § 1441(b)," filed February 26, 2013 by defendants Jose Amaya and Maria Elena Montano.¹ Also before the Court are defendants' respective applications to proceed in forma pauperis.² The instant notice of removal is the second attempt by said defendants to have the above-titled case heard in district court. As set forth below, defendants' second effort fares no better than the first.

Plaintiff GMAC Mortgage, LLC's ("GMAC") sole claim in said case is a claim for unlawful detainer, which claim arises under state law. On September 27, 2012, defendants filed their first notice of removal, asserting a federal question was presented. See GMAC Mortgage, LLC v. Amaya, C. 12-5028 YGR, Doc. No. 1. By order filed November 26, 2012,

¹ A third defendant, Maria Isabel Flores, has not joined in the notice of removal.

² The applications are hereby GRANTED.

1 the Honorable Yvonne Gonzalez Rogers found the district court lacked subject matter
2 jurisdiction and remanded the action to state court for the reason that “there is no diversity
3 jurisdiction” and defendants “failed to identify a basis for federal question jurisdiction.” See
4 GMAC Mortgage, LLC v. Amaya, C. 12-5028 YGR, Doc. No. 12.

5 The instant notice of removal is, in all respects, identical to defendants’ first notice of
6 removal, and this Court finds, for the reasons set forth in Judge Gonzalez Rogers’ order of
7 November 16, 2012, defendants have again failed to show, and cannot show, the federal
8 court has jurisdiction over GMAC’s complaint.

9 Accordingly, the above-titled action is hereby REMANDED to the Superior Court of
10 California, in and for the County of Alameda.

11 The Clerk shall close the file.

12 **IT IS SO ORDERED.**

13 Dated: March 21, 2013


MAXINE M. CHESNEY
United States District Judge

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