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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9 SAN FRANCISCO DIVISION  
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11 HSBC BANK USA N.A. as trustee for  
12 HOME EQUITY LOAN TRUST SERIES  
13 ACE 2006-HE1,

14 Plaintiff,

15 v.

16 MARK SERRATO, et. al.,

17 Defendants.  
18 \_\_\_\_\_

No. C 13-1968 RS

**ORDER ADOPTING REPORT AND  
RECOMMENDATION TO REMAND**

19 The United States Magistrate Judge to whom this action was initially assigned issued a  
20 report and recommendation that plaintiff's motion to remand this action to the Superior Court of  
21 California for Alameda County be granted. *See* Dkt. 10. Specifically, in the Report dated June 14,  
22 2013, the Judge found: (1) defendants' removal was untimely, (2) no diversity jurisdiction exists  
23 because the amount in controversy is less than \$10,000, (3) there is no federal question jurisdiction  
24 as the complaint's only claim for relief is for unlawful detainer under state law, and (4) defendants'  
25 argument that the Protecting Tenants at Foreclosure Act (PTFA) confers federal question  
26 jurisdiction fails because, although they may use the PTFA as a defense in their state law  
27 proceedings, such a defense does not create subject matter jurisdiction in federal court. *See id.* at 4  
28 (citing *Holmes Group, Inc. v. Vornado Air Circulation Sys., Inc.*, 535 U.S. 826, 830-32 (2002)  
(discussing well-pleaded complaint rule)).

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No party has filed objections to the Report and Recommendation, and it is adopted and incorporated in full. The case is remanded and the Clerk is directed to close the case file.

IT IS SO ORDERED.

Dated: 7/1/13

  
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RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE