

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

GROSS MORTGAGE CORPORATION,

No. C 13-02945 WHA

Plaintiff,

**ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
REMANDING**

v.

SABIR AL-MANSUR,

Defendant.

\_\_\_\_\_ /

The Court has received Magistrate Judge Maria-Elena James’ report and recommendation in the above-entitled action, which was removed from the Superior Court of California, County of Alameda. After reviewing the notice of removal and the complaint, the magistrate judge found that federal subject-matter jurisdiction was lacking. The magistrate judge found there was no federal-question jurisdiction where the sole claim asserted in the complaint is one for unlawful detainer. Pro se defendant refutes this finding in his objection to the recommendation to remand, contending the Court has jurisdiction under 28 U.S.C. 1443(1) to hear the action. Under 28 U.S.C. 1443(1), actions commenced in state court may be removed by the defendant to the district court of the United States for the district wherein it is pending, (1) “against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof,” or (2) “for any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.” Defendant contends that removal is proper under 28 U.S.C. 1443(1) because he is being discriminated against by plaintiff, who brought this unlawful detainer action.

1 This action must be **REMANDED**. We must evaluate removability based upon the four  
2 corners of the complaint, not based upon commentary by the defendant as to what he suspects is  
3 really going on. The fact that defendant invokes 28 U.S.C. 1443(1) in his notice of removal  
4 therefore fails to demonstrate that this Court has jurisdiction to hear this claim for relief.

5 The magistrate judge also found that diversity jurisdiction was lacking because the  
6 complaint seeks less than \$10,000 and defendant is a citizen of the state in which plaintiff  
7 originally brought the action. Accordingly, the magistrate judge recommended that the action be  
8 remanded.

9 The parties had fourteen days to file written objections to the report and recommendation.  
10 On August 26, defendant filed an objection. No objections from plaintiff have been received.

11 Having reviewed the complaint and recommendations *de novo*, the Court hereby **ACCEPTS**  
12 **AND ADOPTS** Magistrate Judge Maria-Elena James' report and recommendation in full.  
13 Accordingly, the action is hereby **REMANDED TO THE SUPERIOR COURT OF CALIFORNIA,**  
14 **COUNTY OF ALAMEDA.** The Clerk shall close the file.

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16 **IT IS SO ORDERED.**

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Dated: September 4, 2013.

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE