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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIANATIONSTAR MORTGAGE, LLC,
Plaintiff,
v.
JEFFREY M. STOLTE,
Defendant.

Case No. 14-cv-02138-KAW

**REPORT AND RECOMMENDATION
TO REMAND CASE TO STATE
COURT; ORDER REASSIGNING CASE
TO A DISTRICT JUDGE**

On May 9, 2014, Defendant Jeffrey M. Stolte, who proceeds *pro se*, removed this unlawful detainer action from Contra Costa County Superior Court. (Notice of Removal, Dkt. No. 1.) This is the second time he has done so since Plaintiff Nationstar Mortgage, LLC originally filed the case in state court. *See Stolte v. Nationstar Mortgage, LLC*, No. 13-cv-05539-JCS. In the notice of removal, Defendant states that this Court has diversity jurisdiction over this case. (Notice of Removal ¶ 3.) The face of the complaint, however, indicates that this is a "limited civil case," with the "amount [demanded] not to exceed \$10,000.00." (*See Compl.*)

On August 5, 2014, the undersigned ordered Defendant to show cause why this case should not be remanded to Contra Costa County Superior Court for lack of federal jurisdiction. (Order, Dkt. No. 7.) Defendant was to file a written response to the order within 14 days. As of the filing of this report and recommendation, Defendant has not filed a response to the order to show cause.

Here, the only claim in Plaintiff's complaint is one for unlawful detainer. (*See Compl.*) This does not present a federal question. *See Litton Loan Servicing, L.P. v. Villegas*, No. 10-5478 (PJH), 2011 WL 204322, at *2 (N.D. Cal. Jan. 21, 2011). Moreover, the amount in controversy is less than \$10,000. (*See Compl.*) This falls well below the \$75,000 threshold for diversity

1 jurisdiction. *See* 28 U.S.C. § 1332. Thus, there is no basis for subject matter jurisdiction in this
2 case.

3 Accordingly, the undersigned recommends that this action be remanded to Contra Costa
4 County Superior Court. Furthermore, as Defendant has not consented to the undersigned's
5 jurisdiction pursuant to 28 U.S.C. § 636(c), the undersigned orders that this case be reassigned to a
6 district judge.

7 Any party may file objections to this report and recommendation with the district judge
8 within 14 days of being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b);
9 N.D. Civil L.R. 72-2. The parties are advised that failure to file objections within the specified
10 time may waive the right to appeal the District Court's order. *IBEW Local 595 Trust Funds v. ACS*
11 *Controls Corp.*, No. C-10-5568 EDL, 2011 WL 1496056, at *3 (N.D. Cal. Apr. 20, 2011).

12 **IT IS SO RECOMMENDED.**

13 Dated: 08/26/14

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15 KANDIS A. WESTMORE
16 United States Magistrate Judge
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