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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE BANK OF NEW YORK MELLON,
Plaintiff,
v.
JAMIE R. TARIN, et al.,
Defendants.

Case No. [14-cv-04259-MEJ](#)**ORDER TO SHOW CAUSE**

On September 22, 2014, Defendants Jamie and Joe Tarin removed this unlawful detainer action from Contra Costa County Superior Court. However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at *3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court. Accordingly, the Court ORDERS Defendants to show cause why this case should not be remanded to the Contra Costa County Superior Court. Defendants shall file a declaration by October 8, 2014, and the Court shall conduct a hearing on October 23, 2014 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California. In the declaration, Defendants must address how this Court has jurisdiction over Plaintiff's unlawful detainer claim.

Defendants should be mindful that an anticipated federal defense or counterclaim is not sufficient to confer jurisdiction. *Franchise Tax Bd. of Cal. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 10 (1983); *Berg v. Leason*, 32 F.3d 422, 426 (9th Cir. 1994). "A case may not be removed to federal court on the basis of a federal defense, . . . even if the defense is anticipated in the plaintiff's complaint, and even if both parties admit that the defense is the only question truly

United States District Court
Northern District of California

1 at issue in the case.” *ARCO Env’tl. Remediation, LLC v. Dep’t of Health and Env’tl. Quality of the*
2 *State of Montana*, 213 F.3d 1108, 1113 (9th Cir. 2000); *see also Valles v. Ivy Hill Corp.*, 410 F.3d
3 1071, 1075 (9th Cir. 2005) (“A federal law defense to a state-law claim does not confer
4 jurisdiction on a federal court, even if the defense is that of federal preemption and is anticipated
5 in the plaintiff’s complaint.”). Thus, any anticipated defense, such as a claim under the Protecting
6 Tenants at Foreclosure Act (“PTFA”), Pub.L. No. 111–22, § 702, 123 Stat. 1632 (2009), is not a
7 valid ground for removal. *See e.g. Aurora Loan Serv., LLC v. Montoya*, 2011 WL 5508926, at *4
8 (E.D. Cal. Nov. 9, 2011); *SD Coastline LP v. Buck*, 2010 WL 4809661, at *2–3 (S.D. Cal. Nov.19,
9 2010); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at 2–3 (C.D. Cal. Nov. 22, 2010);
10 *Aurora Loan Serv., LLC v. Martinez*, 2010 WL 1266887, at * 1 (N.D. Cal. March 29, 2010).

11 **IT IS SO ORDERED.**

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13 Dated: September 24, 2014

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16 MARIA-ELENA JAMES
17 United States Magistrate Judge
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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 THE BANK OF NEW YORK MELLON,
4 Plaintiff,
5 v.
6 JAMIE R. TARIN, et al.,
7 Defendants.
8

Case No. [14-cv-04259-MEJ](#)

CERTIFICATE OF SERVICE

9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11 That on 9/24/2014, I SERVED a true and correct copy(ies) of the attached, by placing said
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
14 located in the Clerk's office.

14 Jamie R. Tarin
15 Joe T. Tarin
16 612 Rodeo Avenue
17 Rodeo, CA 94572

18
19
20
21 Dated: 9/24/2014

22
23 Richard W. Wieking
24 Clerk, United States District Court

25 

26 By: _____
27 Chris Nathan, Deputy Clerk to the
28 Honorable MARIA-ELENA JAMES