

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3
4 AURORA LOAN SERVICES, LLC,

No. C 11-05288 CW

5 Plaintiff,

ORDER GRANTING
PLAINTIFF'S
MOTIONS TO REMAND
AND DENYING AS
MOOT DEFENDANT
MENDOZA'S REQUEST
TO PROCEED IN
FORMA PAUPERIS
(Docket Nos. 3, 4
and 11)

6 v.

7 ARTURO GUTIERREZ; CRISTINA
8 GUTIERREZ; and DOES 1-5,

9 Defendants.
10 _____/

11 This case is an unlawful detainer action that was originally
12 filed in Solano County on June 15, 2011. On June 23, 2011,
13 Guadalupe Mendoza, an alleged tenant, answered the complaint.
14 After Mendoza removed the action to federal court, citing grounds
15 based on diversity, Plaintiff filed a motion to remand and served
16 the motion on Mendoza. Docket No. 4. The case was reassigned to
17 the undersigned, and Plaintiff renoticed the motion. Docket
18 No. 11.

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20 Remand of this action to the Solano County Superior Court is
21 warranted. Mendoza has failed to oppose the motion for remand.
22 Furthermore, the notice of removal appears to be procedurally
23 defective. Pursuant to 28 U.S.C. § 1446(a), a defendant or
24 defendants seeking removal of any civil action must file a signed
25 notice of removal "containing a short and plain statement of the
26 grounds for removal." In a case involving multiple defendants,
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"all defendants must join in a removal petition." Proctor v. Vishay Intertechnology, Inc., 584 F.3d 1208, 1224 (9th Cir. 2009) (internal alterations omitted). Here, however, there is no indication in the notice of removal or elsewhere in the docket that Defendants Arturo and Cristina Gutierrez have joined the request for removal.

Plaintiff's motions to remand the case are granted. Docket Nos. 4 and 11. Mendoza's application to proceed in forma pauperis is moot and, thus, denied without prejudice. Docket No. 3. The clerk is directed to remand the file to the Solano County Superior Court.

IT IS SO ORDERED.

Dated: 1/20/2012



CLAUDIA WILKEN
United States District Judge