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2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 OAKLAND DIVISION

5 DEUTSCHE BANK NATIONAL TRUST  
6 COMPANY,

7 Plaintiff,

8 vs.

9 LUIS QUINTANILLA and ODILIA  
10 QUINTANILLA,

11 Defendants.

Case No: C 12-2581 SBA

Related to:  
No. C 11-1044 SBA

**ORDER REMANDING ACTION**

12  
13 Plaintiff Deutsche Bank National Trust Company filed the instant unlawful detainer  
14 (“UD”) action against Defendants in the Superior Court of California, County of Contra  
15 Costa, on January 11, 2011, seeking possession of certain residential property located at  
16 5049 Claremont Ct., Oakley, California 94561. Acting pro se, Defendants removed the  
17 action to this Court on March 7, 2011. See Deutsche Bank Nat’l Trust Co. v. Quintanilla,  
18 No. C 11-1044 SBA. On May 25, 2011, the Court sua sponte remanded the action for lack  
19 of subject matter jurisdiction. Id., Dkt. 12. On remand to the state court, the UD action  
20 proceeded to trial and was resolved in favor of Plaintiff. The judgment was entered and a  
21 writ was issued on May 7, 2012. On May 17, 2012, Defendants again removed the action  
22 to this Court on the basis of federal subject matter jurisdiction, pursuant to 28 U.S.C.  
23 § 1331. Dkt. 1 at 2.<sup>1</sup> Defendants also filed an application to proceed in forma pauperis  
24 (“IFP”). Dkt. 3.

25 Federal courts have an independent duty to ascertain their jurisdiction and may  
26 remand sua sponte for lack of subject matter jurisdiction. See 28 U.S.C. § 1447(c); see also

27  
28 <sup>1</sup> On June 21, 2012, the Court deemed Case No. C 11-1044 SBA related to the  
instant action, within the meaning of Local Rule 3-12. Dkt. 11.

1 Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 93-94 (1998). Under 28 U.S.C.  
2 § 1441(a), “any civil action brought in a State court of which the district courts of the  
3 United States have original jurisdiction, may be removed by the defendant or the  
4 defendants, to the district court of the United States ....” 28 U.S.C. § 1441(a). Under 28  
5 U.S.C. § 1331, district courts “have original jurisdiction of all civil actions arising under the  
6 Constitution, laws, or treaties of the United States.” Federal question jurisdiction is  
7 presumed to be absent unless the removing party which seeks to invoke the Court’s  
8 jurisdiction shows that plaintiff has alleged: (1) a federal cause of action, Am. Well Works  
9 Co. v. Layne & Bowler Co., 241 U.S. 257, 260 (1916) (“a suit arises under the law that  
10 creates the action”); (2) a state cause of action that turns on a substantial dispositive issue of  
11 federal law, Franchise Tax Bd. v. Construction Laborers Vacation Trust, 463 U.S. 1, 9  
12 (1983); Smith v. Kansas City Title & Trust Co., 255 U.S. 180, 199 (1921); or (3) a state  
13 cause of action that Congress has transformed into an inherently federal cause of action by  
14 completely preempting the field of its subject matter, Avco Corp. v. Aero Lodge No. 735,  
15 390 U.S. 557, 560 (1968).

16 In the case of a removed action, a district court must remand the case to state court  
17 “if at any time before the final judgment it appears that the district court lacks subject  
18 matter jurisdiction.” 28 U.S.C. § 1447(c); Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir.  
19 1992). “The presumption against removal means that the defendant always has the burden  
20 of establishing that removal is proper.” Moore-Thomas v. Alaska Airlines, Inc., 553 F.3d  
21 1241, 1244 (9th Cir. 2009). “[R]emoval statutes are strictly construed against removal.”  
22 Luther v. Countrywide Home Loans Servicing, LP, 533 F.3d 1031, 1034 (9th Cir. 2008).  
23 As such, any doubts regarding the propriety of the removal favor remanding the case. See  
24 Gaus, 980 F.2d at 566.

25 Here, Defendants’ Notice of Removal alleges that Plaintiff, through its UD action,  
26 has violated various federal statutes, including the Fair Debt Collection Practices Act  
27 (erroneously referred to as the “Federal Debt Collections Practices Act”), the Truth in  
28 Lending Act, and the Real Estate Settlement Procedures Act. See Dkt. 1 at 3. However,

1 federal subject matter jurisdiction must be apparent from the face of the complaint, and  
2 cannot lie in anticipated defenses. Specifically, federal courts have jurisdiction over cases  
3 in which a “well-pleaded complaint” establishes that federal law creates the cause of action.  
4 Franchise Tax Board v. Construction Laborers Vacation Trust, 463 U.S. 1, 27-28 (1983).  
5 Defensive matters do not confer federal question jurisdiction for removal purposes: “a  
6 defendant may not remove a case to federal court unless the *plaintiff’s complaint*  
7 establishes that the case ‘arises under’ federal law.” Id. at 10 (emphasis in original). In  
8 reviewing the instant pleadings, it is readily apparent that this case does not satisfy the  
9 jurisdictional requirements for federal subject matter jurisdiction. Plaintiff’s Complaint is  
10 presents a UD claim, and does not assert any federal claims. Thus, based on the record  
11 presented, it is facially apparent that this case does not meet the requirements of 28 U.S.C.  
12 § 1331 for federal subject matter jurisdiction.

13 IT IS HEREBY ORDERED THAT the instant action is REMANDED to the  
14 Superior Court of California, County of Contra Costa. The Clerk shall close this file and  
15 terminate all pending matters. Plaintiff’s pending motion for remand (which has not yet  
16 been heard) (Dkt. 7, 13) and Defendants’ request to proceed IFP (Dkt. 3) are DENIED as  
17 moot.

18 IT IS SO ORDERED.

19 Dated: July 24, 2012

20   
21 SAUNDRA BROWN ARMSTRONG  
22 United States District Judge  
23  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 DEUTSCHE BANK NATIONAL TRUST  
5 COMPANY,

6 Plaintiff,

7 v.

8 LUIS QUINTANILLA et al,

9 Defendant.

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10 Case Number: CV12-02581 SBA

11 **CERTIFICATE OF SERVICE**

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

14 That on July 25, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said  
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
17 located in the Clerk's office.

18 Luis Quintanilla  
19 5049 Claremont Court  
20 Oakley, CA 94561

21 Odilia Quintanilla  
22 5049 Claremont Court  
23 Oakley, CA 94561

24 Dated: July 25, 2012

25 Richard W. Wieking, Clerk

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By: Lisa Clark, Deputy Clerk

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