

1
2
3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5
6
7

8 **DEUTSCHE BANK NATIONAL TRUST**
9 **COMPANY,**

10 **Plaintiff,**

11 **vs.**

12 **AURORA MUNOZ BRINGAS, DAVID HERRERA,**
13 **and JOSE HERRERA,**

14 **Defendants.**

Case No.: 12-CV-3673 YGR

ORDER GRANTING MOTION OF PLAINTIFF TO
REMAND; DENYING REQUEST FOR
ATTORNEYS' FEES; AND DENYING
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS

United States District Court
Northern District of California

15
16 This case was removed from the Superior Court for the County of San Mateo where it was
17 pending as an unlawful detainer action against Jose Herrera, Aurora Munoz Bringas and David
18 Herrera. *Pro se* Defendant Jose Herrera removed this action pursuant to 28 U.S.C. § 1441 invoking
19 this Court's federal question jurisdiction under 28 U.S.C. § 1331 on the basis that he intends to raise a
20 defense under the Protecting Tenants from Foreclosure Act ("PTFA"), 12 U.S.C. §§ 5201 *et seq.*

21 Plaintiff has filed a motion to remand on the grounds that Defendant has failed to establish the
22 existence of federal subject matter jurisdiction. Defendant did not file an opposition.

23 The Court **GRANTS** the motion for remand because no federal question is presented in this
24 action.¹

25 The complaint asserts only one state law claim for unlawful detainer. Thus, there is no federal
26 question. A defense under the PTFA does not establish a basis for federal jurisdiction. *Caterpillar*

27
28 ¹ Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds that this
motion is appropriate for decision without oral argument.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Inc. v. Williams, 482 U.S. 386 (1987) (under the “well-pleaded complaint” rule, a case may not be removed on the basis of a federal defense). Finally, the amount in controversy does not meet the jurisdictional threshold of \$75,000.00 for diversity jurisdiction. Accordingly, this action must be remanded.

Plaintiff’s Motion to Remand (Dkt. No. 8) is **GRANTED**. Plaintiff’s Request for Attorneys’ Fees is **DENIED**.

Defendant’s Application to Proceed *in Forma Pauperis* (Dkt. No. 2) is **DENIED AS MOOT**.

The Clerk of the Court is directed to **REMAND** this action to the San Mateo County Superior Court.

This Order terminates Dkt. Nos. 2 & 8.

IT IS SO ORDERED.

Date: November 2, 2012


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE