

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

3  
4 DARRICK D. STERLING, SPIRIT AND  
5 SELF MINISTRIES, SYLVESTER  
6 BRADFORD, and YVONNE TIJERINO,  
7                                    Plaintiffs,

8                                    v.

9 DEUTSCH BANK AMERICAS, MARILYN Y.  
10 RODRIQUEZ, SPRE, INC., GMAC  
11 MORTGAGE, CYPREXX CORPORATION,  
12 WOLF FIRM, KAYO MANSON-TOMKIN,  
13 ALAMEDA COUNTY SHERIFF, and  
14 ALAMEDA COUNTY COUNSEL,

15                                    Defendants.  
16 \_\_\_\_\_/

No. C 14-00827 CW  
ORDER ON MOTION  
FOR THE REMOVAL OF  
STATE COURT ACTION  
(Docket No. 20)

United States District Court  
For the Northern District of California

17                                    On March 13, 2014, Plaintiffs Darrick D. Sterling and  
18 Sylvester Bradford filed a motion for removal of Deutsche Bank  
19 Trust Company Americas v. Bradford et al., case number 11-594238,  
20 filed in Alameda superior court on September 8, 2011. Under 28  
21 U.S.C. § 1446, a defendant in a state court civil action may  
22 remove the action to federal court within thirty days after the  
23 service of summons. However, Plaintiffs identify no authority  
24 that permits them to file a motion to combine an unrelated state  
25 court action, where at least one Plaintiff is a defendant, with  
26 this federal case, where Plaintiffs have asserted several  
27 affirmative claims under federal law. Plaintiffs' motion is  
28 procedurally improper and therefore must be denied. If a  
plaintiff wishes to remove a civil state court action to which he  
is a defendant, he must timely file a notice of removal according  
to the procedures of 28 U.S.C. § 1446, which would initiate a  
separate federal court action. Removal of a state court case

1 filed in 2011, however, is unlikely to be timely. See 28 U.S.C.  
2 § 1446.

3 In any event, Plaintiffs do not appear to have any legal  
4 basis for removing the above-referenced state court action.  
5 According to the documents filed by Plaintiffs, the state court  
6 action is an unlawful detainer action. Because the "federal  
7 question must appear on the face of the complaint," and unlawful  
8 detainer is a matter of state law, this Court is unlikely to have  
9 jurisdiction to hear the state court action. Caterpillar Inc. v.  
10 Williams, 482 U.S. 386, 399 (1987); Bank of Am., N.A. v. Arriola,  
11 2012 WL 1996954, \*2-3 (N.D. Cal.). Additionally, Bradford has  
12 made at least five attempts to remove this state court action.  
13 Each time the case was remanded, and the latest attempt was made  
14 in direct contravention of the court's warning that any further  
15 attempt would be "legally frivolous" and might "expose Bradford to  
16 contempt of court penalties." See Deutsche Bank Trust Company  
17 Americas as Trustee v. Bradford, Case No. 13-3564 RS, Docket Nos.  
18 1, 8. Accordingly, Plaintiffs are advised to cease their attempts  
19 to remove this state court action.

20 IT IS SO ORDERED.

21 Dated: 5/23/2014

22   
23 CLAUDIA WILKEN  
24 United States District Judge  
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