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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WELLS FARGO BANK N.A.,

Plaintiff,

No. C 14-3529 PJH

v.

**ORDER GRANTING MOTION TO
REMAND**

AGUEDA ALVARADO, et al.,

Defendants.

_____ /

Before the court is the motion of plaintiff Wells Fargo Bank N.A. as Trustee, on Behalf of Holders of the Harborview Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-12 ("Wells Fargo") for an order remanding the above-entitled action to the Superior Court of California, County of San Mateo. Pro se defendants Agueda Alvarado and Hector Alvarado ("defendants") did not file an opposition to the motion within the time allowed under Civil Local Rule 7-3. Having read the plaintiff's papers and carefully considered its arguments and the relevant legal authority, the court hereby GRANTS the motion.

Wells Fargo filed the complaint in this unlawful detainer action on December 11, 2013 (San Mateo County Sup. Ct. Case No. CLJ208869), seeking recovery of premises located at 823 Shepard Way, Redwood City, California, which Wells Fargo allegedly purchased on October 24, 2014 at a trustee's sale held in compliance with California Civil Code § 2924. Wells Fargo asserts that notwithstanding the foreclosure sale, and service of a three-day Notice to Quit, defendants have continued to occupy the premises without the consent of Wells Fargo.

On January 15, 2014, defendants removed the case to this court as Case No. C-14-0229, alleging diversity jurisdiction and federal question jurisdiction. On January 31, 2014, Wells Fargo filed a motion to remand. On February 11, 2014, the court issued an

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1 order to show cause ("OSC") why the case should not be remanded for lack of subject
2 matter jurisdiction. Defendants did not respond to the OSC by the deadline set by the
3 court. On March 4, 2014, Magistrate Judge Maria-Elena James issued a report,
4 recommending that the case be dismissed for lack of subject matter jurisdiction. See Wells
5 Fargo Bank, N.A. v. Alvarado (No. C-14-0229, N.D. Cal.) Doc. 9. On March 28, 2014, the
6 Hon. Jon S. Tigar issued an order adopting the report and recommendation, and
7 remanding the case for lack of subject matter jurisdiction.

8 On May 30, 2014, defendants removed the unlawful detainer action as an adversary
9 proceeding (No. 14-3060, N.D. Cal. (Bankr.)) to Agueda Alvarado's bankruptcy petition.
10 The United States Bankruptcy Court remanded the unlawful detainer action to the San
11 Mateo County Superior Court on July 2, 2014.

12 On August 5, 2014, defendants again removed the unlawful detainer case to this
13 court, alleging diversity jurisdiction and federal question jurisdiction. This is the case now
14 pending. The notice of removal and attached documents appear identical in every respect
15 to the documents that were filed with the first notice of removal on January 15, 2014,
16 except that defendants have changed the dates on the signature pages, from January 14,
17 2014, to August 5, 2014.

18 For the reasons stated in the March 4, 2014 report and recommendation, which was
19 adopted by the court on March 28, 2014, the court finds that this case must be
20 REMANDED for lack of subject matter jurisdiction. Further, the clerk is hereby instructed to
21 accept no further removals of this unlawful detainer action (San Mateo County Sup. Ct.
22 Case No. CLJ208869) filed by Agueda Alvarado or Hector Alvarado, unless the filing is first
23 approved by a judge of this court.

24

25 **IT IS SO ORDERED.**

26 Dated: September 9, 2014

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PHYLLIS J. HAMILTON
United States District Judge