

E-Filed 12/14/10

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

CHRIS MONET, Managing Member of
StoneyBrook Townhomes, LLC,

Plaintiff,

v.

INDYMAC COMMERCIAL LENDING
CORPORATION, an/or its affiliates, officers,
assigns, or agents thereto and DOES 1 to 10,000
inclusive,

Defendants.

Case No. 5:10-cv-04506-JF (HRL)

ORDER¹ DISMISSING ACTION FOR
LACK OF SUBJECT-MATTER
JURISDICTION

Federal courts are obligated to consider *sua sponte* whether they have subject matter jurisdiction. *See Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004) (citing *Allstate Ins. Co. v. Hughes*, 358 F.3d 1089, 1093 (9th Cir. 2004)). On September 9, 2010, Plaintiff Chris Monet (“Plaintiff”) filed the instant action in the Santa Clara Superior Court. On October 5, 2010, Plaintiff sought to remove the action to this Court. However, “[a] plaintiff who commences his action in a state court cannot effectuate removal to a federal court even if he could have originated the action in a federal court . . .” *Or. Egg Producers v. Andrew*, 458 F.2d 382, 383 (9th Cir. 1972) (citing 28 U.S.C. § 1441; *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100 (1941)). Accordingly, this Court lacks subject-matter jurisdiction, and the action is

¹ This disposition is not designated for publication in the official reports.

1 remanded to the Superior Court.

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3 IT IS SO ORDERED.

4 DATED: 12/14/10


JEREMY FOGEL
United States District Judge

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1 This Order has been served upon the following persons:

2 Chris Monet
3 P.O.Box 67365
4 Scotts Valley, CA 95067
5 831-335-7388

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