

1 2010 Order, it appears that this Court has no jurisdiction to enter a stay of the state court unlawful
2 detainer proceedings.

3 Second, the Court notes that Mr. Contreras' filings are not styled as a removal to federal
4 court, and it does not appear to the Court that Mr. Contreras has thus far attempted to remove the
5 unlawful detainer action. It appears that any attempt to remove to federal court is unlikely to
6 succeed. Generally, federal courts have no original jurisdiction over unlawful detainer actions
7 based on state law, unless the removing party can show that diversity jurisdiction is proper. *See,*
8 *e.g., Fannie Mae v. Bridgeman*, No. 2:10-cv-02619 JAM KJN PS, 2010 U.S. Dist. LEXIS 134498
9 at *14-*15 (E.D. Cal. Dec. 17, 2010) (citing numerous district court decisions finding no federal
10 question jurisdiction over unlawful detainer actions based on state law). Furthermore, pursuant to
11 28 U.S.C. § 1441(b), a defendant who is a state resident cannot remove based on diversity to a
12 federal court in his state of residence. Therefore, it appears unlikely that the unlawful detainer
13 action is removable to federal court. However, if Mr. Contreras wishes to remove it from state
14 court, it is his burden to file a Notice of Removal and demonstrate a jurisdictional basis for
15 removal. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (“We strictly construe the
16 removal statute against removal jurisdiction. Federal jurisdiction must be rejected if there is any
17 doubt as to the right of removal in the first instance.”) (internal citations omitted); *Abrego v. Dow*
18 *Chem. Co.*, 443 F.3d 676, 685 (9th Cir. 2006) (“[T]he burden of establishing removal jurisdiction
19 remains, as before, on the proponent of federal jurisdiction”).

20 Third, and finally, having reviewed the Report and Recommendation in the December 22,
21 2010 Order, the law referenced therein, as well as the record in this case, the Court finds that the
22 Report and Recommendation is well-founded in fact and in law. Therefore, the Report and
23 Recommendation is adopted in its entirety. The Court construes Mr. Contreras' filing of December
24 27, 2010 as an objection to Judge Grewal's Report and Recommendation under Federal Rule of
25 Civil Procedure 72(a). The Court has reviewed this objection and finds that it fails to demonstrate
26 that the recommendation is clearly erroneous or contrary to law. Accordingly, the Court DENIES
27 the TRO request.

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Because this is the only pending request in this matter, there are no other issues to be decided. Therefore, the Clerk shall CLOSE the file.

IT IS SO ORDERED.

Dated: December 28, 2010



LUCY H. KOH
United States District Judge