

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

ALFONSO DELGADILLO SANCHEZ, et.  
al.,

CASE NO. 5:11-cv-05008 EJD

Plaintiff(s),

v.

WT CAPITAL LENDER SERVICES, et.  
al.,

**ORDER GRANTING DEFENDANTS'  
MOTION TO DISMISS FOR LACK OF  
SUBJECT MATTER JURISDICTION;  
DENYING AS MOOT DEFENDANT'S  
MOTION TO DISMISS OR FOR MORE  
DEFINITE STATEMENT**

[Docket Item No(s). 16, 17, 20]

Defendant(s).

**I. INTRODUCTION**

In March, 2006, pro se Plaintiffs Alfonso Delgadillo Sanchez and Ana Bertha Sanchez ("Plaintiffs") purchased residential property in Salinas, California, secured by a Note and Deed of Trust for \$425,000.00. See Compl., at p. 6. Plaintiffs defaulted on the loan payments and the property was eventually subject to a foreclosure sale in December, 2011. See id., at pp. 8-11; see also Req. for Judicial Notice ("RJN"), Docket Item No. 16, at Ex. B.<sup>1</sup>

From what can be discerned, Plaintiffs initiated the present action in this court as a challenge

<sup>1</sup> Defendants' respective Requests for Judicial Notice are GRANTED to the extent referenced in this Order. Fed. R. Evid. 201(b)(2); Hite v. Wachovia Mortg., No. 2:09-cv-02884-GEB-GGH, 2010 U.S. Dist. LEXIS 57732, at \*6-9 (E.D. Cal. June 10, 2010); Gens v. Wachovia Mortg. Corp., No. CV10-01073 JF (HRL), 2010 U.S. Dist. LEXIS 54932, at \*6-7, 2010 WL 1924777 (N.D. Cal. May 12, 2010).

1 to the foreclosure. In response, Defendants WT Capital Lender Services, Sterling Pacific Lending,  
2 Inc., and Chicago Title/Salinas (“Defendants”) now move the court for an order dismissing  
3 Plaintiffs’ Complaint for lack of subject matter jurisdiction pursuant to Federal Rule of Civil  
4 Procedure 12(b)(1). See Docket Item Nos. 17, 20.<sup>2</sup> Defendant Chicago Title/Salinas also filed a  
5 separate motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), or alternatively, for a  
6 more definite statement under Federal Rule of Civil Procedure 12(e). See Docket Item No. 16.  
7 Plaintiffs have not filed written opposition to either motion, and the time for filing such opposition  
8 has passed.

9 Having carefully reviewed the relevant documents, the court finds these matters suitable for  
10 decision without oral argument pursuant to Civil Local Rule 7-1(b). Accordingly, the hearing  
11 scheduled for July 6, 2012, will be vacated. Defendants’ Motion under Rule 12(b)(1) will be  
12 granted and the Motion under Rules 12(b)(6) and 12(e) denied as moot.

## 13 II. DISCUSSION

14 Pursuant to Federal Rule of Civil Procedure 8(a), a complaint must contain “a short and plain  
15 statement of the claim showing that the pleader is entitled to relief,” as well as “a short and plain  
16 statement of the grounds for the court’s jurisdiction, unless the court already has jurisdiction and the  
17 claim needs no new jurisdictional support.”

18 A motion to dismiss under Federal Rule of Civil Procedure Rule 12(b)(1) challenges the  
19 court’s subject matter jurisdiction and may be either facial or factual. Wolfe v. Strankman, 392 F.3d  
20 358, 362 (9th Cir. 2004). As relevant here, a facial 12(b)(1) motion involves an inquiry confined to  
21 the allegations in the complaint. Id. Much like other dismissal motions, all material allegations in  
22 the complaint are assumed true, and the court must determine whether lack of jurisdiction appears  
23 from the face of the complaint itself. Thornhill Publ’g Co. v. General Tel. Elec., 594 F.2d 730, 733  
24 (9th Cir. 1979). “A party invoking the federal court’s jurisdiction has the burden of proving the  
25 actual existence of subject matter jurisdiction.” Thompson v. McCombe, 99 F.3d 352, 353 (9th Cir.

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27 <sup>2</sup> The joinder of Chicago Title/Salinas in the Motion to Dismiss for Lack of Jurisdiction  
28 (Docket Item No. 20) is GRANTED.

1 1996).

2 Federal jurisdiction can generally arise in two ways: (1) from the presence of a federal  
3 question, or (2) from diversity of the parties. See 28 U.S.C. §§ 1331, 1332. For jurisdiction based  
4 on a federal question, the court looks to the face of a “well-pleaded complaint” to determine whether  
5 a cause of action is created by federal law or whether the plaintiff’s right to relief necessarily  
6 depends on the resolution of a substantial question of federal law. Christianson v. Colt Indus.  
7 Operating Corp., 486 U.S. 800, 808 (1988) (citing Franchise Tax Bd. of California v. Constr.  
8 Laborers Vacation Trust, 463 U.S. 1, 27-28, (1983)). For diversity, federal courts have original  
9 jurisdiction where (1) opposing parties are citizens of different states and (2) the amount in  
10 controversy exceeds \$75,000. 28 U.S.C. § 1332(a). “[A] party seeking to invoke diversity  
11 jurisdiction should be able to allege affirmatively the actual citizenship of the relevant parties” in  
12 order to confirm that *all parties* are diverse. Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th  
13 Cir. 2001).

14 Looking at the Complaint in this case, the court preliminarily notes that the pleading is  
15 essentially devoid of any allegations supporting federal jurisdiction. This is, itself, a violation of the  
16 applicable pleading standard provided by Federal Rule of Civil Procedure 8(a). But overlooking this  
17 arguably technical requirement,<sup>3</sup> the basis for jurisdiction in this court is still not apparent. If  
18 Plaintiffs intended to rely on the presence of the federal question as they suggest in the Complaint’s  
19 caption, they have not referenced the federal authority which gives rise to their claims. The general  
20 statement that this case presents a question of “whether or not the constitutionally afforded rights  
21 have been abridged” is not enough to justify a federal forum because the court cannot assume or  
22 even decipher which rights are at issue. Plaintiffs’ Complaint, therefore, does not support  
23 jurisdiction under § 1331 in its present format.

24 Turning to diversity jurisdiction, it appears that Plaintiffs are citizens of California  
25 considering the residential property at issue is located in this state. Moreover, Plaintiffs allege that  
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27 <sup>3</sup> The court has liberally construed Plaintiffs’ pleadings because they are proceeding pro se.  
28 See Abassi v. Immigration & Naturalization Serv., 305 F.3d 1028, 1032 (9th Cir. 2002).

1 at least one of the named defendants, WT Capital Lender Services, is also a citizen of California.  
2 This allegation is confirmed by the documentation submitted by Defendants for this motion. See  
3 RJN, Docket Item No. 17, at Ex. A; 28 U.S.C. § 1332(c)(1) (“[A] corporation shall be deemed to be  
4 a citizen of any State by which it has been incorporated and of the State where it has its principal  
5 place of business.”). Another defendant, Sterling Pacific Lending, Inc., is a California citizen as  
6 well. See id., at Ex. B. Accordingly, complete diversity does not exist, and jurisdiction does not  
7 arise under § 1332.<sup>4</sup>

8 Since Plaintiffs have not demonstrated the existence of either federal question or diversity  
9 jurisdiction, Defendants’ collective motion must be granted and this case must be dismissed. The  
10 dismissal will be without prejudice. Freeman v. Oakland Unified Sch. Dist., 179 F.3d 846, 847 (9th  
11 Cir. 1999) (“Dismissals for lack of jurisdiction should be . . . without prejudice so that a plaintiff  
12 may reassert his claims in a competent court.” (internal quotations omitted)).


### 13 III. ORDER

14 Based on the foregoing, Defendants’ Motion to Dismiss for lack of subject matter  
15 jurisdiction (Docket Item No. 17) is GRANTED and this action DISMISSED WITHOUT  
16 PREJUDICE. The Motion pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(e) (Docket  
17 Item No. 17) is DENIED AS MOOT.

18 The hearing and Case Management Conference scheduled for July 6, 2012, are VACATED.  
19 Since this order effectively resolves the case, the Clerk shall close this file.

20 **IT IS SO ORDERED.**

21 Dated: June 29, 2012

  
EDWARD J. DAVILA  
United States District Judge

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26 <sup>4</sup> Plaintiffs also reference supplemental jurisdiction in the Complaint. This doctrine does not  
27 aid Plaintiffs here because it does not provide a source for original jurisdiction in federal court. See  
28 Pac. Bell v. Covad Communications Co., No. C 99-1491 SI, 1999 U.S. Dist. LEXIS 8846, at \*9,  
1999 WL 390840 (N.D. Cal. June 8, 1999).