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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BEN ANTONIO, JERRY PARKER,)
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 Plaintiffs,)
)
 v.)
)
 GRACE WAKAYAMA, et al,)
)
 Defendants.)
 _____)

Case No.: CV 13-0377 PSG
**ORDER REMANDING CASE TO
STATE COURT**

On January 28, 2013, Defendants Grace Wakayama, et al, (“Defendants”) removed this case from Santa Clara County Superior Court. Plaintiffs Ben Antonio and Jerry Parker (“Plaintiffs”) brought an unlawful detainer action against Defendants in state court, and Defendants removed the case to federal court on the basis of presenting a defense or claims under The Protecting Tenants at Foreclosure Act, 12 U.S.C. § 5220. The parties have consented to magistrate jurisdiction.¹

Federal courts are limited in their jurisdiction to either (1) diversity cases where citizens of two different states have a dispute involving an amount in controversy that exceeds \$75,000 or (2) federal questions where the cause of action - not the defense - “arises under” federal law.² This case

¹ See Docket Nos. 5, 8; see also 28 U.S.C. § 636.

² See 28 U.S.C. § 1331; *Louisville & Nashville R. Co. v. Mottley*, 211 U.S. 149, 154 (1908).

1 is neither between diverse parties nor does the cause of action - the unlawful detainer claim - arise
2 under federal law. The court also notes that the Protecting Tenants at Foreclosure Act does not
3 provide a cause of action for tenants.³ This court, therefore, lacks subject matter jurisdiction to hear
4 the case.

5 Accordingly, the court hereby ORDERS that this case be remanded to Santa Clara County
6 Superior Court.

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8 Dated: March 6, 2013

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10 PAUL S. GREWAL
11 United States Magistrate Judge
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³ See *Nativi v. Deutsche Bank National Trust Co.*, Case No. 09-6096 PVT, 2010 WL 2179885 (N.D. Cal. May 26, 2010).