

United States District Court  
For the Northern District of California

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

NGA INVESTMENT, LLC,	)	Case No. 5:14-cv-02227-PSG
	)	
Plaintiff,	)	<b>ORDER RE: ORDER TO SHOW</b>
v.	)	<b>CAUSE</b>
	)	
REUBEN BERONILLA and	)	<b>(Re: Docket Nos. 7 and 9)</b>
MARIA V. BERONILLA,	)	
	)	
Defendant.	)	

After a repeated frivolous attempt to remove an unlawful detainer action from state court to federal court, this court denied Defendants Reuben and Maria V. Beronilla’s application to proceed in forma pauperis.<sup>1</sup> When the Beronillas failed to pay the requisite filing fee, the court ordered the case remanded to state court.<sup>2</sup> Within that order, the court also ordered the Beronillas to show

<sup>1</sup> See Docket No. 7 (“Because Defendants Reuben Beronilla and Maria V. Beronilla’s repeated attempt to remove their unlawful detainer case from state court is frivolous,<sup>2</sup> their petition to proceed in forma pauperis is DENIED. Defendants shall pay the filing fee within seven days or the case will be remanded to state court and the federal case closed.”).

<sup>2</sup> See Docket No. 9 at 1 (“The docket reflects the Beronillas’ failure to pay the filing fee to initiate this case or otherwise respond with a legitimate basis for this court to assert jurisdiction over NGA Investment, LLC’s unlawful detainer action.”). The court ordered the case remanded and not reassigned to a district judge with a report and recommendation, because the court possessed the parties’ consent to adjudicate the state court unlawful detainer action. See Case No. 5:14-cv-01357-PSG, Docket Nos. 4 and 8.

1 cause why sanctions were not warranted.<sup>3</sup> The docket reflects the Beronillas have not responded to  
2 the order to show cause as to why sanctions shall not issue. The Beronillas instead responded by  
3 removing their case, for a fourth time, to federal court – just under four hours after their case had  
4 been remanded to the state court.<sup>4</sup> Yesterday, Judge Lloyd reassigned that case to a district judge  
5 with the report and recommendation that Plaintiff NGA Investment, LLC’s motions to remand and  
6 for sanctions be granted.<sup>5</sup> The court agrees with Judge Lloyd that, at a minimum, a pre-filing order  
7 is warranted because the Beronillas have demonstrated their capacity for vexatious litigation.<sup>6</sup> The  
8 undersigned will leave the contours of any ultimate sanction to the district judge.  
9

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11 <sup>3</sup> See Docket No. 9 (“Because the Beronillas removed their case for a third time without  
12 justification, despite District Judge Beth Freeman’s prior admonition against such a frivolous  
13 filing, the Beronillas shall show cause in writing within fourteen days why sanctions shall not  
14 issue.”); see also Case No 5:14-cv-01842-BLF, Docket No. 7 at 1 (“Defendants are advised,  
15 pursuant to the Report, that any future attempt to remove this case to federal court, having already  
16 tried twice to do so unsuccessfully, may result in sanctions.”).

17 <sup>4</sup> Compare Case No. 5:14-cv-02227-PSG, Docket No. 9 (order remanding case at 10:11 AM on  
18 May 28, 2014), with Case No. 5:14-cv-02457-BLF-HRL, Docket No. 1 (notice of removal at  
19 2:05 PM on May 28, 2014).

20 <sup>5</sup> See Case No. 5:14-cv-02457-BLF-HRL, Docket No. 9.

21 <sup>6</sup> See *id.* at 8.

22 Accordingly, the undersigned finds that defendants are vexatious litigants and that the  
23 issuance of a pre-filing order, while drastic, is warranted.

24 Because the parties have yet to consent to the undersigned’s jurisdiction, this court  
25 ORDERS the Clerk of the Court to reassign this case to a District Judge. The undersigned  
26 RECOMMENDS that the newly assigned judge (1) grant plaintiff’s motion for remand to  
27 the Santa Clara County Superior Court; (2) grant plaintiff’s motion for sanctions; and (3)  
28 issue a pre-filing order instructing the Clerk of the Court not to accept any further removal  
filings pertaining to Santa Clara County Superior Court case number 114CV261245, unless  
defendants obtain and present a prior order from a judge of this district allowing them to  
file the removal papers.

The undersigned further RECOMMENDS that the pre-filing order provide as follows:  
“IT IS HEREBY ORDERED that before filing any further notices of removal of Santa  
Clara County Superior Court case number 114CV261245, Reuben Beronilla and Maria V.  
Beronilla must first apply to the court for, and obtain from the court, an order authorizing  
them to do so. They must attach the following documents to any such application: (1) a  
copy of Judge Lloyd’s Report and Recommendation issued in this case, (2) a copy of this  
order, and (3) a copy of the proposed filing. The Clerk of the Court shall not accept for  
filing any further notices of removal of Santa Clara County Superior Court case number  
114CV261245, unless defendants obtain and present a prior order from a judge of this  
district allowing them to file the removal papers.”

The Clerk shall close this file.

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**IT IS SO ORDERED.**

Dated: July 15, 2014

  
PAUL S. GREWAL  
United States Magistrate Judge

**United States District Court**  
For the Northern District of California