UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

37-02009-00032658-CL

DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE FOR DOWNEY 2004-AR4,

Plaintiff,

v.

EDUARDO F. RODRIGUEZ, an individual, NORA C. RODRIGUEZ, an individual, and DOES 1 through 10, inclusive,

Defendants.

Case No. 10cv1185 BTM(WMc)

ORDER REMANDING CASE

In an order filed on June 7, 2010, the Court ordered Defendants to show cause why this case should not be remanded for lack of removal jurisdiction. Defendants have not filed a response to the OSC. Plaintiff has filed a response in which Plaintiff argues that the case was improperly removed and should be remanded.

As discussed in the Court's OSC, the unlawful detainer action filed against Defendants arises under state law and does not require resolution of a substantial question of federal law. See U.S. Bank Nat'l Ass'n v. Lasoff, 2010 WL 669239 (C.D. Cal. Feb. 23, 2010) (holding that unlawful detainer action did not raise a federal question); HSBC Bank USA, NA v. Valencia, 2010 WL 546721 (E.D. Cal. Feb. 10, 2010) (remanding unlawful detainer action); Wells Fargo Bank, Nat'l Ass'n v. Cencil, 2010 WL 2179778 (N.D. Cal. May 27, 2010) (granting motion to remand unlawful detainer action). Any federal defenses or counterclaims

Defendants may wish to bring do not give rise to federal question jurisdiction. Franchise Tax Bd. v. Constr. Laborers Vacation Trust, 463 U.S. 1, 14 (1983) (explaining that a case may not be removed to federal court on the basis of a federal defense).

Furthermore, the Court has no basis for concluding that diversity jurisdiction exists. 28 U.S.C. § 1332(a). There is no evidence that there is complete diversity between the parties, and it appears that the amount in controversy is less than $75,000.

The removing defendant always has the burden of establishing that removal is proper, and the court resolves all ambiguity in favor of remand to state court. Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992). Defendants have not satisfied their burden. Therefore, the Court **REMANDS** this action to the Superior Court of California, County of San Diego.

IT IS SO ORDERED.

DATED: July 6, 2010

Honorable Barry Ted Moskowitz
United States District Judge