
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

21ST MORTGAGE CORPORATION,
Plaintiff,
vs.
DAVID W. WINKWORTH, PEGGY S.
WINKWORTH and JOHN DOES I-X,
Defendants.

**MEMORANDUM DECISION AND
ORDER**

Case No. 2:17-cv-368CW

Judge Clark Waddoups

Before the court is 21st Mortgage Corporations' Motion to Remand to State Court (Dkt. No. 7). For the reasons set forth below, the court GRANTS the motion.

On March 27, 2017, Plaintiff 21st Mortgage Corporation ("21st Mortgage") filed a Complaint for Eviction ("Complaint") in the Third District Court, Salt Lake County, Utah, naming David and Peggy Winkworth ("Winkworth's") as defendants regarding certain property in South Jordan, Utah. Thereafter 21st Mortgage proceeded to file a Notice to Vacate.

On May, 5, 2017, a third-party named Lance B. Anderson filed a notice of removal in the District of Idaho, alleging federal jurisdiction under "Mortgage Assistance Relief Services." The notice of removal does not bear the address of the property in South Jordan or the signature of the Winkworth's. On May 8, 2017, the District Court of Idaho entered an Order which states "it appears this case was removed incorrectly to this Court" and directing the Clerk of the Court to "transfer this matter to the United States Court for the District of Utah."

21st Mortgage proceeded to file a Motion to Remand to State Court. The court having reviewed the motion concludes remand is proper. First, removal to the District Court in Idaho was improper because it was filed by a third-party. See 28 U.S.C. § 1446(a). Removal was also improper because the documents filed by the third-party do not show the Winkworth's actual consent to removal, as required by 28 U.S.C. § 1446(b)(2). Foremost, there is no federal question raised in the Complaint; thus no federal jurisdiction to support removal. See 28 U.S.C. §1441(c). Accordingly, the matter should be remanded to the Third District Court, Salt Lake County, Utah.

SO ORDERED.

Dated this 19th day of May, 2017.

BY THE COURT:



Clark Waddoups
United States District Judge