THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

U.S. BANK TRUST, as trustee for LSF9 MASTER PARTICIPATION TRUST,

CASE NO. C17-1786-JCC

MINUTE ORDER

Plaintiff,

v.

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IVAILO MARKOV, et al.,

Defendants.

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court *sua sponte*. Defendant filed a notice of removal from Snohomish County Superior Court (Dkt. No. 3). Defendant alleged this Court has jurisdiction because "Defendant's demurrer a pleading depending on the determination of Defendant's rights and Plaintiff's duties under federal law" and, as a result, "[f]ederal question jurisdiction exists." (*Id.* at 2.) However, it is well established that "federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *California v. United States*, 215 F.3d 1005, 1014 (9th Cir. 2000). A defendant cannot create subject matter jurisdiction through the assertion of a defense or counterclaim where jurisdiction would otherwise be lacking. *See Caterpillar, Inc., v. Williams*, 482 U.S. 386, 392 (1987) (defense);

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Holmes Group, Inc., v. Vornado Air Circulation Systems, Inc., 535 U.S. 826, 832 (2002) (counterclaim). Based on the record before the Court, it does not appear that the Court would have federal question jurisdiction over this case. Within fourteen (14) days of the issuance of this order, Defendant is ORDERED to show cause why this case should not be remanded to Snohomish County Superior Court for lack of subject matter jurisdiction. Defendant shall file a response with the Court, not to exceed five (5) pages, that lists the facts and law that demonstrate that this Court has federal question jurisdiction over this matter. The Clerk is DIRECTED to mail a copy of this order to Defendant. DATED this 12th day of June 2018. William M. McCool Clerk of Court s/Tomas Hernandez Deputy Clerk