

1 HONORABLE RONALD B. LEIGHTON

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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 DANIEL G SZMANIA,

CASE NO. C16-5644RBL

10 Plaintiff,

ORDER

11 v.

12 E-LOAN, INC.,

13 Defendant.

14 THIS MATTER is before the Court on its own motion. This case was dismissed with  
15 prejudice in November 2016. [Dkt. #64]. Szmania appealed the same day this Court denied his  
16 Motion for Reconsideration [Dkt. #s 67, 68].

17 Szmania has recently filed an “Answer and Notice of Removal” [Dkt. #72], apparently  
18 purporting to remove to either this Court or the Ninth Circuit a state law unlawful detainer action  
19 pending against him. He also filed a second “Answer to Complaint” [Dkt. #74], apparently  
20 related to the state court unlawful detainer case.

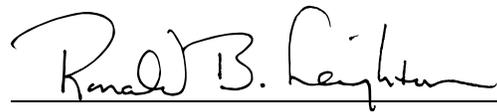
21 This Court no longer has jurisdiction over Szmania’s claim, due to his appeal of its order  
22 dismissing that claim with prejudice. Even if it did, Szmania’s effort to remove the state law  
23 claim here is improper for a number of reasons: the removal notice is facially untimely, and  
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1 Szmania has not identified any basis for this Court’s (much less the Ninth Circuit’s) jurisdiction  
2 over the unlawful detainer claim. Indeed, he cannot. The sole issue in an unlawful detainer action  
3 is possession of property. *See Green Tree Servicing, LLC v. Shoemaker*, 2005 U.S. Dist. LEXIS  
4 36171, at \*8–9 (W.D. Wash. July 15, 2005) (referencing RCW 61.24.060). “[T]here is no  
5 amount in controversy. ...” *Id.* Because Szmania cannot meet 28 U.S.C. § 1332’s amount-in-  
6 controversy requirement, this Court lacks jurisdiction over the purportedly removed action.

7 Under Fed. R. Civ. P. 62.1 and FRAP 12.1, if the Ninth Circuit remanded the case for the  
8 limited purpose of remanding the state law case to state court, this Court would do so. Otherwise,  
9 this Court will not act on either of the recent filings, or on any other filings Szmania makes in  
10 this court while the appeal is pending.

11 IT IS SO ORDERED.

12 Dated this 25<sup>th</sup> day of May, 2017.

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14 Ronald B. Leighton  
15 United States District Judge  
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