

1 HONORABLE RONALD B. LEIGHTON

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

9 WILMINGTON SAVINGS FUND
10 SOCIETY, FSB,

11 Plaintiff,

12 v.

13 BRENDA J DUZAN,

14 Defendant.

CASE NO. C16-5721-RBL

ORDER GRANTING MOTION TO
REMAND

[Dkt. #19]

15 THIS MATTER is before the Court on Plaintiffs' Motion to Remand [Dkt. #19]. The
16 case involves a residential mortgage loan and its default. Plaintiffs sued Brenda Duzan, the
17 borrower, in Pierce County Superior Court, seeking foreclosure. Duzan was served December
18 30, 2014. She removed the case 595 days later, on August 17, 2016.

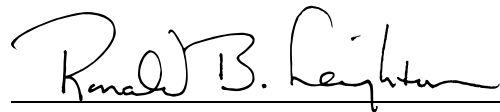
19 Plaintiffs seek remand, arguing the removal is untimely and that Duzan cannot meet her
20 burden of establishing that this court has subject matter jurisdiction over the case. They seek fees
21 and costs. Duzan denies that she did or had to comply with the statutory removal requirements;
22 she claims instead that the Civil Rights Act of 1866 gives her an "unconditional" right to
23 remove.
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1 A party has 30 days after receiving the initial pleading or summons to remove the action
2 to federal court. 28 U.S.C. § 1446(b). The removal statute is strictly construed against removal
3 jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). The Court must reject
4 removal jurisdiction if there is “any doubt” as to the right of removal. *Id.* The strong
5 presumption against removal places the burden on the party seeking removal to establish that
6 removal is proper. *Id.*

7 This is a burden that Duzan cannot meet. Her removal was untimely and the Plaintiffs’
8 complaint did not raise a federal question. The Motion is **GRANTED** and this case is
9 **REMANDED** to Pierce County Superior Court. The Plaintiffs’ request for fees and costs is
10 **DENIED**.

11 IT IS SO ORDERED.

12 Dated this 2nd day of November, 2016.

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15 Ronald B. Leighton
16 United States District Judge
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