

APPENDIX

App. 1a – The [34-1] Memorandum and Judgment of
the United States Court of Appeals for the Ninth
Circuit, entered 12/10/2020

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 18-16786

D.C. No. 1:18-cv-00225-DKW-KSC

U.S. BANK, N.A., as Trustee for J.P. Morgan
Mortgage Acquisition Trust 2006-WMC2, Asset
Backed Pass-Through Certificates, Series 2006-
WMC2,

Plaintiff-Appellee,

v.

DONNA MAE AMINA; MELVIN KEAKAKU
AMINA,

Defendants-Appellants.

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Derrick Kahala Watson, District Judge, Presiding

Submitted December 2, 2020**

Before: WALLACE, CLIFTON, and BRESS, Circuit

Judges.

Donna Mae Amina and Melvin Keakaku Amina appeal pro se from the district court's orders concerning the imposition of attorney's fees and costs

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

following the remand of their action to state court. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's award of fees and costs under 28 U.S.C. § 1447(c). Lussier v. Dollar Tree Stores, Inc., 518 F.3d 1062, 1065 (9th Cir. 2008). We affirm.

The district court did not abuse its discretion in awarding plaintiff fees and costs because appellants lacked an objectively reasonable basis to remove the action, as their argument that Hawaii is not a state is frivolous. See Martin v. Franklin Capital Corp., 546 U.S. 132, 141 (2005) ("Absent unusual circumstances, courts may award attorney's fees under § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal."); see also 28 U.S.C. 1441(b) ("A civil action otherwise removable solely on the basis of [diversity jurisdiction] may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.").

We reject as meritless appellants' contention that the district court lacked jurisdiction to impose fees

and costs, and their various contentions concerning the propriety of the award.

We do not consider matters not specifically and distinctly raised and argued in the opening brief. See Padgett v. Wright, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Appellants' motions to file a supplemental brief (Docket Entry Nos. 23, 24) are granted. The Clerk is directed to file appellants' Supplement to Opening Brief (Docket Entry No. 20).

AFFIRMED.

App. 1b – The [17] opinion of the district court

THE DISTRICT OF HAWAII

CV 18-00225 DKW-KSC

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR J. P. MORGAN MORTGAGE
ACQUISITION TRUST 2006-WMC2, ASSET
BACKED PASSTHROUGH CERTIFICATES,
SERIES 2006-WMC2,

Plaintiff,

vs.

DONNA MAE AMINA also known as DONNA M.
AMINA; MELVIN KEAKAKU AMINA, also known
as MELVIN K. AMINA;

ASSOCIATION OF APARTMENT OWNERS OF
2304 METCALF STREET; AND DOES 1 THROUGH
20, INCLUSIVE ,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S
FINDINGS AND RECOMMENDATION

Findings and Recommendation having been filed on
July 6, 2018 and served on all parties on July 9,
2018, and Defendants' July 16, 2018 objections being
so inconsequential and lacking merit so as not to
warrant further discussion or necessitate response,

IT IS HEREBY ORDERED AND ADJUDGED
that, pursuant to Title 28, United States Code,
Section 636(b)(1)(C) and Local Rule 74.2, the
"Findings and Recommendation to Grant Plaintiff's
Motion to Remand" are adopted as the opinion and

order of this Court.

IT IS SO ORDERED.

DATED: July 20, 2018 at Honolulu, Hawai'i.

/s/ Derrick K. Watson

Derrick K. Watson

United States District Judge

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR J. P. MORGAN MORTGAGE
ACQUISITION TRUST 2006-WMC2, ASSET
BACKED PASSTHROUGH CERTIFICATES,
SERIES 2006-WMC2 v. Donna Mae Amina, et al.;
Civil No. 18-00225 DKW KSC; ORDER ADOPTING
MAGISTRATE JUDGE'S FINDINGS AND
RECOMMENDATION

App. 1c -- A timely petition for rehearing was [41]
denied on 04/05/2021.

FILED APR 5 2021
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 18-16786
D.C. No. 1:18-cv-00225-DKW-KSC
District of Hawaii, Honolulu
ORDER

U.S. BANK, N.A., as Trustee for J.P. Morgan
Mortgage Acquisition Trust 2006-WMC2, Asset
Backed Pass-Through Certificates, Series 2006-
WMC2,

Plaintiff-Appellee,

v.

DONNA MAE AMINA; MELVIN KEAKAKU
AMINA,

Defendants-Appellants.

Before: WALLACE, CLIFTON, and BRESS, Circuit
Judges.

The Aminas' petition for panel rehearing (Docket
Entry No. 37) is denied.

No further filings will be entertained in this
closed case.

App. 1d – [12] Findings and Recommendations

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

CIVIL NO. 18-00225 DKW-KSC

U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
J.P. MORGAN MORTGAGE
ACQUISITION TRUST 2006-
WMC2, ASSET BACKED PASSTHROUGH
CERTIFICATES,
SERIES 2006-WMC2,
Plaintiff,

vs.

DONNA MAE AMINA, ALSO
KNOWN AS DONNA M. AMINA;
MELVIN KEAKAKU AMINA
ALSO KNOWN AS MELVIN K.
AMINA; ASSOCIATION OF
APARTMENT OWNERS OF 2304
METCALF STREET; and DOES 1
through 20, Inclusive,
Defendants.

FINDINGS AND RECOMMENDATION TO GRANT
PLAINTIFF'S MOTION TO REMAND

Before the Court is Plaintiff U.S. Bank National Association, as Trustee for J.P. Morgan Mortgage Acquisition Trust 2006-WMC2, Asset Backed Pass-Through Certificates, Series 2006-WMC2's

("Plaintiff") Motion to Remand, filed June 25, 2018. At the Court's direction, Plaintiff filed a Supplemental Memorandum on July 5, 2018.

The Court elects to decide this matter without a hearing pursuant to Rule 7.2(d) of the Local Rules of Practice for the U.S. District Court for the District of Hawaii.¹ After careful consideration of the Motion, the Supplemental Memorandum, the record, and the applicable law, the Court **HEREBY RECOMMENDS** that Plaintiff's Motion be **GRANTED** for the reasons set forth below.

BACKGROUND

On April 5, 2018, Plaintiff commenced this action in the Circuit Court of the First Circuit, State of Hawaii. Plaintiff asserts two causes of action: 1) declaratory relief and 2) judicial foreclosure. Defendants Donna Mae Amina and Melvin Keakaku Amina (collectively "the Aminas") were served with the Complaint on April 19, 2018. Mot., Ex. B.

On June 14, 2018, the Aminas removed the action on the basis of federal question and diversity jurisdiction. Notice of Removal ("Notice") at ¶¶ 6-7. Included in the Notice are the following averments: 1) the Notice is timely filed; 2) federal question jurisdiction exists because the foreclosure of a mortgage is an "attempt to collect" pursuant to the Fair Debt Collection Practices Act ("FDCPA"); 3)

¹ The Court also elects to proceed without full briefing. The record is sufficiently clear to evaluate the arguments presented by Plaintiff. The Court would not be assisted by any response and, under the circumstances, any arguments presented in further briefing could not cure improper removal.

diversity jurisdiction exists because the amount in controversy exceeds \$75,000.00 and the action is between citizens of different states. *Id.* at ¶¶ 2, 6 & 7. The Aminas claim that they are not citizens of Hawaii nor are they domiciled here because the processes of Hawaii's statehood and membership in the union were legally defective.²

The instant Motion followed.

DISCUSSION

Plaintiff seeks remand of this action to state court on the following grounds: 1) removal is untimely; 2) federal question jurisdiction is lacking; 3) diversity jurisdiction has not been established; and 4) 28 U.S.C. § 1441(b)(2)³ bars removal.

The Aminas removed the instant case on the basis of federal question and diversity jurisdiction. Under 28 U.S.C. § 1441, a defendant may remove a

² It is unclear why the Aminas now elect to make this misrepresentation because they have claimed to be citizens of Hawaii in multiple other actions in this district, including another currently pending action. See Civil No. 18-00143 DKWKSC, Amina, et al. v. WMC Finance Co., et al., Compl. at ¶ 65 ("Plaintiffs are citizens of Hawaii."); Civil No. 11-00747 JMSBMK, Amina, et al. v. Bank of New York Mellon, et al., Compl. at ¶ 6 (same), Amend. Compl. at ¶ 12, Second Amend. Compl. at ¶ 12; Civil No. 10-00165 JMS-KSC, Amina, et al. v. WMC Mortgage Corp., et al., Compl. at ¶ 8, Amend. Compl. at ¶ 8, Second Amend. Compl. at ¶ 8. The Aminas' citizenships are relevant to the extent that removal is based upon diversity of citizenship.

³ Plaintiff incorrectly cited 28 U.S.C. § 1446.

civil action brought in a state court to federal district court if the district court has original jurisdiction. Abrego Abrego v. The Dow Chemical Co., 443 F.3d 676, 679-80 (9th Cir. 2006). "Removal . . . statutes are 'strictly construed,' and a 'defendant seeking removal has the burden to establish that removal is proper and any doubt is resolved against removability.'" Hawaii ex rel. Louie v. HSBC Bank Nevada, N.A., 761 F.3d 1027, 1034 (9th Cir. 2014) (quoting Luther v. Countrywide Home Loans Serv. LP, 533 F.3d 1031, 1034 (9th Cir.2008)); Durham v. Lockheed Martin Corp., 445 F.3d 1247, 1252 (9th Cir. 2006); California ex rel. Lockyer v. Dynegy, Inc., 375 F.3d 831, 838 (9th Cir. 2004).

There is a strong presumption against removal jurisdiction, which "means that the defendant always has the burden of establishing that removal is proper,' and that the court resolves all ambiguity in favor of remand to state court." Hunter v. Philip Morris USA, 582 F.3d 1039, 1042 (9th Cir. 2009) (quoting Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992) (per curiam)); California ex rel. Lockyer, 375 F.3d at 838 ("[T]he burden of establishing federal jurisdiction falls to the party invoking the statute."); Durham, 445 F.3d at 1252 (Courts resolve any doubts about the propriety of removal in favor of remanding the case to state court). Courts should presume that a case lies outside the limited jurisdiction of the federal courts. Hunter, 582 F.3d at 1042.

A. The Aminos Untimely Removed on the Basis of Federal Question Jurisdiction

The timing of removal is governed by § 1446(b), which provides:

(1) The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based

. . . .
(3) Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

28 U.S.C. § 1446(b). Section 1446 affords two thirty-day windows during which a defendant may remove an action. The Ninth Circuit has held that “the first thirty-day period for removal in 28 U.S.C. § 1446(b) only applies if the case stated by the initial pleading is removable on its face.” Harris v. Bankers Life and Cas. Co., 425 F.3d 689, 694 (9th Cir. 2005); Durham, 445 F.3d at 1252. Indeed, “the ground for removal must be revealed affirmatively in the initial pleading in order for the first thirty-day clock under § 1446(b) to begin.” Harris, 425 F.3d at 695; Kerr v. Delaware N. Companies, Inc., No. 116CV01797LJOSAB, 2017 WL 880409, at *1 (E.D. Cal. Mar. 6, 2017) (citation omitted) (“If there is no basis for removal evident within the ‘four corners’ of a pleading, it is not removable and the 30 day time limit does not begin to run.”).

Section “1446(b)(3) applies only where a

'voluntary' act of the plaintiff brings about a change that renders the case removable." Busch v. Jakov Dulcich & Sons LLC, No. 15-CV-00384-LHK, 2015 WL 3792898, at *4 (N.D. Cal. June 17, 2015) (quoting Self v. Gen. Motors Corp., 588 F.2d 655, 657-58 (9th Cir. 1978)) (internal quotation omitted). Section 1446(b)(3) "requires a paper that shows a ground for removal that was previously unknowable or unavailable." Chan Healthcare Grp., PS v. Liberty Mut. Fire Ins. Co., 844 F.3d 1133, 1142 (9th Cir. 2017) (citing 14C Charles Alan Wright et al., Federal Practice and Procedure § 3731 (4th ed. 2016)).

In support of their assertion of federal question jurisdiction, the Aminos posit that the foreclosure of a mortgage is an "attempt to collect" pursuant to the FDCPA. Whether or not federal question jurisdiction exists is determined by the well-pleaded complaint rule, which "provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint." Hunter, 582 F.3d at 1042 (quoting Fisher v. NOS Commc'ns, 495 F.3d 1052, 1057 (9th Cir. 2007)); Kerr, 2017 WL 880409, at *1; Takeda v. Northwestern Nat'l Life Ins. Co., 765 F.2d 815, 821 (9th Cir. 1985) (citations omitted) ("A case 'arises under' federal law only if the federal question appears on the face of the plaintiff's well-pleaded complaint."). Thus, "removal based on federal question jurisdiction is improper unless a federal claim appears on the face of a well-pleaded complaint." Redwood Theatres, Inc. v. Festival Enters., Inc., 908 F.2d 477, 479 (9th Cir. 1990) (citing Franchise Tax Bd. v. Constr. Laborers Vacation Trust, 463 U.S. 1, 10 (1983); Gully v. First Nat'l

Bank, 299 U.S. 109, 113 (1936)). The federal question may not be aided by the answer or by the petition for removal. Takeda, 765 F.2d at 822 (citation omitted). A counter-claim presenting a federal question does not create removability. Id.

If the Aminas genuinely believe that Plaintiff's judicial foreclosure claim, as presented in the Complaint, implicates the FDCPA, the first 30-day period was triggered on April 19, 2018, the day they were served. Insofar as the Aminas filed the Notice 56 days after service was effectuated, removal on the basis of federal question jurisdiction is untimely.

The Aminas may not avail themselves of § 1446(b)(3)'s second 30-day window because there was no voluntary act by Plaintiff that brought about a change that rendered the case removable (when it previously was not). Nor is there a paper showing a ground for removal that was previously unknown or unavailable.

B. The Aminas Improperly Removed Based on Diversity Jurisdiction

The Aminas also improperly removed the action based on diversity jurisdiction.⁴ In attempting to invoke diversity jurisdiction, the Aminas state that Plaintiff is a national association; that Plaintiff's headquarters are in Minnesota; that SEC documents refer to Cincinnati, Ohio; and that the Complaint identifies \$1,295,451.05 as the amount in controversy. As earlier discussed, the Aminas

⁴ The Court need not discuss the timeliness of removal based on diversity jurisdiction because the removal was improper for the other reasons discussed herein.

erroneously disclaim Hawaii citizenship due to alleged legal defects in the statehood process.

Federal district courts have original jurisdiction over cases where the amount in controversy exceeds \$75,000, exclusive of interest and costs, and where the matter in controversy is between citizens of different states. See 28 U.S.C. § 1332(a)(1). Complete diversity of citizenship requires that each of the plaintiffs be a citizen of a different state than each of the defendants. Morris v. Princess Cruises, Inc., 236 F.3d 1061, 1067 (9th Cir. 2001). A procedural limitation, known as the forum defendant rule, also applies. It provides that actions based on diversity jurisdiction may only be removed if none of the properly joined and served defendants is a citizen of the state in which the action is brought. 28 U.S.C. § 1441(b)(2); Lively v. Wild Oats Markets, Inc., 456 F.3d 933, 939 (9th Cir. 2006) (Section 1441 “confines removal on the basis of diversity jurisdiction to instances where no defendant is a citizen of the forum state”).

The Aminas’ removal on the basis of diversity jurisdiction fails for multiple reasons. First, removal violates the forum defendant rule.⁵ Notwithstanding

⁵ Because “this additional limitation on diversity-based removal jurisdiction is a procedural, or non-jurisdictional, rule,” any such challenges are subject to the 30-day limitation set forth in §1447(c). Lively, 456 F.3d at 939-41 (9th Cir. 2006) (holding that “the forum defendant rule embodied in § 1441(b) is a procedural requirement, and thus a violation of this rule constitutes a waivable non-jurisdictional defect subject to the 30-day time limit imposed by § 1447(c)”). Section 1447(c) provides: “A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be

the Aminas' nonsensical and contradictory representation that they are not citizens of Hawaii given Hawaii's illegal statehood, multiple records within this district establish that they are in fact citizens of Hawaii. As such, the forum defendant rule precluded the Aminas from removing this action on the basis of diversity jurisdiction.

Second, even if the forum defendant rule did not prohibit removal, the Aminas have not articulated with sufficient particularity the parties' citizenships to establish diversity jurisdiction.⁶ They assert that public records show that Plaintiff's headquarters are in Minnesota and that SEC documents refer to Cincinnati, Ohio. A "national bank, for § 1348 purposes, is a citizen of the State in which its main office, as set forth in its articles of association, is located." Wachovia Bank v. Schmidt, 546 U.S. 303, 307 (2006); Rouse v. Wachovia Mortg., FSB, 747 F.3d 707, 715 (9th Cir. 2014) ("We hold that, under § 1348, a national banking association is a citizen only of the state in which its main office is located."). The Aminas have not affirmatively identified the state where Plaintiff's main office is located, as set forth in its articles of incorporation. Moreover, as already discussed, the Aminas misrepresent that they are not citizens of Hawaii.⁷ The Aminas have therefore

made within 30 days after the filing of the notice of removal under section 1446(a)." 28 U.S.C. § 1447(c). Plaintiff timely raised the Aminas' violation of the forum defendant rule.

⁶ The Complaint likewise does not include averments concerning the parties' citizenships.

⁷ If this were true, the Aminas failed to provide their actual citizenships.

failed to establish the existence of diversity jurisdiction.

In sum, removal is untimely to the extent the Aminos removed on the basis of federal question jurisdiction. To the extent the Aminos removed on the basis of diversity jurisdiction, removal is improper because it violates the forum defendant rule and because the Aminos failed to establish diversity jurisdiction. Accordingly, the Court recommends that Plaintiff's Motion be GRANTED and that this action be remanded to state court.

C. Removal Expenses

The Court further recommends that the reasonable fees and costs incurred in connection with the removal be awarded to Plaintiff pursuant to 28 U.S.C. § 1447(c). When a federal court remands a case, it "may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." 28 U.S.C. § 1447(c). The Supreme Court has stated that: "Absent unusual circumstances, courts may award attorney's fees under § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal. Conversely, when an objectively reasonable basis exists, fees should be denied." Martin v. Franklin Capital Corp., 546 U.S. 132, 141 (2005) (citations omitted). The district court retains discretion to determine whether a given case presents unusual circumstances that warrant a departure from this rule. Id. The Martin Court also instructed that

[t]he appropriate test for awarding fees under § 1447(c) should recognize the desire to deter removals sought for the purpose of prolonging

litigation and imposing costs on the opposing party, while not undermining Congress' basic decision to afford defendants a right to remove as a general matter, when the statutory criteria are satisfied.

Id.

Having found that the Aminos lacked any objectively reasonable basis for removal, and in exercising its discretion, the Court finds that an award of attorneys' fees and costs incurred in connection with the improper removal is appropriate and warranted in this case.⁸ The reasonableness and amount of the fees and costs will be determined after Plaintiff's counsel submits a declaration in conformance with Local Rules 54.2 and 54.3(d).

CONCLUSION

For the reasons stated above, the Court HEREBY RECOMMENDS that Plaintiff's Motion be GRANTED and that this action be remanded to the Circuit Court of the First Circuit, State of Hawaii.

IT IS SO FOUND AND RECOMMENDED.

DATED: Honolulu, Hawaii, July 6, 2018.

Kevin S.C. Chang

United States Magistrate Judge

CIVIL NO. 18-00225 DKW-KSC; U.S. BANK NAT'L
ASS'N V. AMINA, ET AL.; FINDINGS AND
RECOMMENDATION TO GRANT PLAINTIFF'S

⁸ That the Aminos are pro se does not militate against an award, as they regularly engage in litigation, and their pro se status should not excuse them from consequences that other litigants are subjected to when failing to comply with rules and statutes.

MOTION TO REMAND

App. 1e – [25] Order (no document)

25 Filed & Entered:

08/20/2018 Link

Docket Text: EO: In its Findings and Recommendation to Grant Plaintiff's Motion to Remand ("F&R"), this Court recommended that Plaintiff be awarded attorneys' fees and costs associated with the improper removal of the case. On 7/20/18, Judge Watson adopted the F&R. After reviewing Plaintiff's counsel's declaration regarding fees and costs, the Court finds that Plaintiff reasonably incurred \$3,447.64 in attorneys' fees and tax, and \$111.45 in costs and applicable tax. Defendants are ordered to remit \$3,559.09 to Plaintiff's counsel by 9/3/18. (MAGISTRATE JUDGE KEVIN S.C. CHANG)(chang1)

App. 1f – [27] Order (no document)

27 Filed & Entered:

08/29/2018 Link

Docket Text: EO: On 8/20/18, this Court issued an Entering Order ("EO") establishing the amount of the award of fees and costs associated with the improper removal of this action.

On 8/28/18, Defendants filed an Objection to the EO on the following grounds: 1) the Court lacks jurisdiction due to the pending appeal; 2) removal was not improper; 3) Plaintiff did not request attorneys' fees; 4) Defendants were not served with any documents concerning attorneys' fees, costs, or tax, and did not have an opportunity to respond; 5) Defendants did not agree to pay attorneys' fees; 6) the attorneys' fees are excessive; and 7) the symbol "\$" refers to Federal Reserve Notes, not lawful money. The Court addresses each in turn. First, not only does the Court retain jurisdiction to award fees and costs pursuant to 28 U.S.C. § 1447(c) after remand, the Court also retains jurisdiction to award attorneys' fees after an appeal is filed. *Moore v. Permanente Med. Grp., Inc.*, 981 F.2d 443, 448 (9th Cir. 1992) ("[B]ecause the award of attorney's fees pursuant to 28 U.S.C. § 1447(c) is collateral to the decision to remand, the district court retained jurisdiction after remand to entertain Plaintiffs' motion for attorney's fees."); *Masalosalo by Masalosalo v. Stonewall Ins. Co.*, 718 F.2d 955, 957 (9th Cir. 1983) ("The district court retained the power to award attorneys' fees after the notice of appeal from the decision on the merits had been

filed."). Notably, the award of expenses was made prior to both the remand of this action and the filing of the notice of appeal; the EO merely set forth the amount of the award. Second, no further discussion concerning the propriety of removal is warranted, as that issue is presently on appeal. Third, the fact that Plaintiff did not request expenses does not preclude an award, as "[a]n order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." 28 U.S.C. § 1447(c). Fourth, according to the certificate of service attached to Plaintiff's counsel's Affidavit filed on 8/3/18, Defendants were served via U.S. Mail that same day. Fifth, the Court need not obtain Defendants' agreement to award fees and costs against them. Sixth, the Court issued its determination regarding fees and costs after careful review of Plaintiff's counsel's Affidavit, and found the amounts to be reasonable. Plaintiff would not have incurred those fees and costs were it not for the improper removal. Finally, Defendants' contention about the dollar sign is frivolous and irrelevant. Although the Objection was not properly presented as a motion for reconsideration, to the extent it could be construed as such, it is denied for the reasons articulated herein.

(MAGISTRATE JUDGE KEVIN S.C. CHANG)(chang1)