IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TIMOTHY J. PAGLIARA, Plaintiff, v. FEDERAL NATIONAL MORTGAGE ASSOCIATION, Defendant.	C.A. No. 1:16-cv-00193-GMS

DECLARATION OF ADAM W. POFF IN SUPPORT OF PLAINTIFF TIMOTHY J. PAGLIARA'S REPLY BRIEF IN SUPPORT OF MOTION TO REMAND AND IN RESPONSE TO FANNIE MAE'S OPPOSITION

YOUNG CONAWAY STARGATT
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Attorneys for Plaintiff
Timothy J. Pagliara

September 1, 2016

I, Adam W. Poff, hereby declare:

1. I am an attorney with the law firm of Young Conaway Stargatt & Taylor LLP, and counsel of record for Plaintiff Timothy J. Pagliara in the above-captioned matter. I offer this Declaration in support of Plaintiff Timothy J. Pagliara's Reply Brief in Support of Motion to Remand and in Response to Fannie Mae's Opposition.

2. Attached hereto are true and correct copies of the following documents, as referenced in Plaintiff Timothy J. Pagliara's Reply Brief in Support of Motion to Remand and in Response to Fannie Mae's Opposition:

Exhibit	Description
A	Letter to J. Kilduff from B. Flinn (Aug. 11, 2016)
B	Memorandum in Support of Motion to Remand, *Federal National Mortgage Association v. Palmer*, C.A. No. 1:11-cv-00238-EJL-CWD (D. Idaho July 12, 2011)
C	Memorandum in Opposition to Motion to Remand, *Federal National Mortgage Association v. Palmer*, C.A. No. 1:11-cv-00238-EJL-CWD (D. Idaho Aug. 2, 2011) (Exhibit 1 omitted)

I hereby declare, under penalty of perjury, that the foregoing is true and correct to the best of my personal knowledge.

Dated: September 1, 2016

/s/ Adam W. Poff
Adam W. Poff (DE Bar No. 3990)

CERTIFICATE OF SERVICE

I, C. Barr Flinn, hereby certify that on September 1, 2016, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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I further certify that on September 1, 2016, I caused a copy of the foregoing document to be served by e-mail on the above-listed counsel of record and on the following:

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Dated: September 1, 2016

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ C. Barr Flinn

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EXHIBIT A

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August 11, 2016

VIA EMAIL (jkilduff@omm.com)

Jeffrey W. Kilduff, Esq.
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1625 Eye Street, NW
Washington, D.C. 20006-4001

Re: ***Pagliara v. Fannie Mae*,**
Case No. 1:16-cv-193 (GMS)

Dear Mr. Kilduff:

Thank you for your letter of August 4, 2016, in which you request that the plaintiff, Timothy J. Pagliara (the "Stockholder"), change the allegation that Fannie Mae is incorporated in Delaware, as it appears in the Verified Complaint (the "Complaint") and the Motion to Remand. There will be no change because, as detailed below, based upon the publicly available information, including the information repeated in your letter, the allegation is correct.

As a threshold matter, we are puzzled by your unusual request because Fannie Mae's incorporation in Delaware does not appear to be directly relevant to any material issue in the litigation. As all agree, Fannie Mae is governed by Delaware law, except to the extent inconsistent with federal law.

Your letter requests that the Stockholder provide any basis, beyond the certificate of incorporation attached as Exhibit C to the Complaint (the "Certificate"), for the allegation that Fannie Mae is incorporated in Delaware. But there is no need for the Stockholder to provide any additional basis. The Certificate provides ample basis standing alone. Even if this were not so, the Complaint provides additional, definitive bases, which your letter prefers to ignore.

For example, as the Complaint correctly alleges, at the outset of the 90-day period for Fannie Mae to elect its governing corporation law (12 C.F.R. § 1710.10 (2002)), Fannie Mae filed the Certificate with the Delaware Secretary of State (Compl. ¶ 45). The timing of the filing

indicates that the Certificate was intended to effectuate Fannie Mae's election of Delaware law. Based upon the publicly available information, there appears to have been no other reason for Fannie Mae to have filed the Certificate.

Even more significantly, as the Complaint also correctly alleges, after the filing of the Certificate, Fannie Mae's bylaws expressly stated that they were included in Fannie Mae's certificate. (Compl. ¶ 44.) Section 1.05 of the bylaws expressly stated, "The inclusion of provisions in these Bylaws shall constitute inclusion in the corporation's 'certificate of incorporation' for all purposes of the Delaware General Corporation Law." Fannie Mae Bylaws § 1.05 (as am. Jan. 21, 2003). Fannie Mae therefore plainly had a Delaware certificate of incorporation, into which it purported to incorporate its bylaws. To this day, Fannie Mae's bylaws state that certain of their provisions are included in Fannie Mae's certificate of incorporation for purposes of Delaware law. Fannie Mae Bylaws § 1.05 (as am. July 21, 2016). This could not be the case if Fannie Mae did not have a Delaware certificate of incorporation.

Your letter contends that, as it was already federally chartered, Fannie Mae had no need to incorporate in Delaware. Whether Fannie Mae had a need to incorporate in Delaware is beside the point because, as its bylaws and the Certificate make clear, it did incorporate in Delaware. In all events, Fannie Mae had at least one reason to incorporate in Delaware. Upon electing Delaware law, Fannie Mae could not exculpate its directors for certain liabilities except by means of an exculpation provision in its certificate of incorporation. 8 *Del. C.* § 102(b)(7). The Certificate purports to provide for just such exculpation. Certificate ¶ SEVENTH (Aug. 21, 2002).

Although it hardly matters whether the Complaint identifies the correct Delaware certificate of incorporation, the Complaint does so, for at least three reasons: *First*, as previously stated, the timing of the filing of the Certificate indicates that it was intended to effectuate Fannie Mae's election of Delaware law and that the Certificate is therefore for Fannie Mae. *Second*, as previously stated, Fannie Mae's bylaws purported to have been included in *some* certificate of incorporation and the Certificate is the only certificate into which they might have been incorporated because it is the only certificate that can be found that refers to Fannie Mae. *Finally*, the Certificate could not have been for some subsidiary or affiliate of Fannie Mae because, under the Charter Act, only Fannie Mae's "bod[y] corporate" can use "Federal National Mortgage Association" as its name or any "part thereof." 12 U.S.C. § 1723a(e).

As only limited research on your part would have revealed, the addition of the abbreviation "Inc." after Fannie Mae's name on the Certificate would not prevent the Certificate from serving as Fannie Mae's certificate. And there could be any number of reasons why the Certificate authorized fewer shares of common stock than Fannie Mae then had outstanding. Whether correctly or not, Fannie Mae apparently saw no need to obtain retroactive authorization under state law for shares that presumably were authorized by the Charter Act when issued. Even if shares were subsequently issued without authorization, this would not prevent the Certificate from serving as Fannie Mae's certificate of incorporation.

Finally, your letter's primary basis for contending that Fannie Mae is not incorporated in Delaware – that the Delaware Secretary of State has declared the Certificate attached to the Complaint "void" for "non-payment of taxes" – is nonsense. As limited research on your part would again have revealed, a corporation cannot avoid its status as a Delaware corporation by not paying its taxes. The voiding of the corporation for non-payment of taxes is a matter solely between the corporation and the State of Delaware. So, for example, a void corporation could be prosecuted by the State for exercising corporate powers. But it has no impact on the corporation's status as a Delaware corporation vis-à-vis all other parties.[1]

While, for whatever reasons, Fannie Mae may now find it inconvenient to be a Delaware corporation, the available information indicates that it is.

The Stockholder's investigation of Fannie Mae's incorporation in Delaware is ongoing. He is not required at this time to disclose all relevant information of which he is aware. The Stockholder therefore expressly reserves all rights, arguments, etc. with respect to this issue to the extent that it ever becomes relevant to this litigation.[2]

Very truly yours,

C. Barr Flinn

cc: Michael J. Walsh, Jr., Esq.
S. Mark Hurd, Esq.
Zi-Xiang Shen, Esq.
Adam W. Poff, Esq.
Lakshmi A. Muthu, Esq.
Gregory J. Brodzik, Esq.

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[1] Your letter's contention that the Complaint somehow missed this issue is wrong. Although it is immaterial to this dispute, the Complaint expressly acknowledged the issue at page 19, footnote 13. The Complaint expressly states, "After its incorporation in Delaware, Fannie Mae did not file annual reports with the Delaware Division of Corporations or pay franchise taxes. As a result, Fannie Mae is not currently in good standing with the Secretary of the State of Delaware."

[2] Your letter asks the Stockholder to note 12 C.F.R. § 1239.3(d). It is noted, but it has no application. It was adopted on December 21, 2015, well after Fannie Mae had elected to be governed by Delaware law. In any event, it says nothing about whether Fannie Mae is a Delaware Corporation.

EXHIBIT B

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U.S. DISTRICT COURT FOR THE DISTRICT OF IDAHO

FEDERAL NATIONAL MORTGAGE ASSOCIATION, aka FANNIE MAE, a corporation created by the Congress of the United States, Plaintiff, vs. OLIVER PALMER and BARBARA PALMER, husband and wife; and DOES I through X, unknown occupants of the property commonly known as 115 Riverside Drive, Horseshoe Bend, Boise County, Idaho, Defendants.	Case No. CV11-238-S-EJL-CWD **MEMORANDUM IN SUPPORT OF MOTION TO REMAND**

COMES NOW Federal National Mortgage Association (hereinafter "Fannie Mae"), by and through its attorney of record, Mark D. Perison of the firm of Mark D. Perison, P.A., and hereby moves this Court for an Order of Remand, as follows:

I.

BACKGROUND AND FACTS

On January 28, 2011, Fannie Mae purchased all the right, title, and interest in and to certain real property located in Boise County, Idaho, by being the highest bidder at a Trustee's Sale. A Trustee's Deed which covers the subject property was duly recorded on February 10, 2011, as Instrument No. 230451, records of Boise County, Idaho.

Pursuant to Idaho Code § 45-1506(11), a purchaser at a trustee's sale is entitled to possession of the subject property ten days after the sale. Anyone remaining in possession of such property after ten days is deemed a tenant at sufferance. *Id*. Defendants Oliver Palmer and Barbara Palmer failed and refused to vacate the subject property within ten days of the trustee's sale, and on May 6, 2011, Fannie Mae filed its complaint in state court for unlawful detainer pursuant to Idaho Code § 6-310. Complaint, Case No. CV 2011-106, in the District Court for the Fourth Judicial District of the State of Idaho, in and for the County of Boise, Magistrate Division, attached as Exhibit "A" to Affidavit of Mark D. Perison.

In its Complaint, Fannie Mae seeks the removal of Defendants and any unknown occupants from the subject property, pursuant to state law. Fannie Mae

does not seek any damages in this case. Defendants have not filed an Answer in the state court case. On May 23, 2011, Defendants filed their Notice of Removal, seeking to remove the state court unlawful detainer case to federal court.

II.

MOTION

A. This Court Lacks Subject Matter Jurisdiction.

Pursuant to 28 U.S.C. § 1441(a), in order for a defendant to remove a case to federal court, the district court must first have original jurisdiction of the claim.

> Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court *of which the district courts of the United States have original jurisdiction*, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending. . . .

28 U.S. C. § 1441(a) (emphasis added). There is a "strong presumption" against removal jurisdiction, and "the defendant always has the burden of establishing that removal is proper." *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). Any ambiguity regarding the ability to remove the case should be resolved in favor of remand to state court. *Hunter v. Philip Morris USA*, 582 F.3d 1039 (9th Cir. 2008) (citing *Gaus*, 980 F.2d at 566).

As discussed below, Fannie Mae's state case does not involve a federal statute, treaty, or constitutional provision which would confer federal question jurisdiction, the amount in controversy does not exceed $75,000.00 as required to confer diversity

jurisdiction, and no other basis for original jurisdiction has been alleged or exists. 28 U.S.C. 1330 *et seq*..

1. *Minimum Amount in Controversy not Satisfied for Diversity Jurisdiction.*

A federal district court shall have original jurisdiction over civil actions between citizens of different states when the amount in controversy exceeds $75,000.00. 28 U.S.C. § 1332(a). In determining whether the amount in controversy in satisfied, the plaintiff is the master of its complaint. Absent bad faith, if the plaintiff has alleged facts and pled the amount of damages, the defendant must not only prove to a legal certainty that the damages sought by plaintiff are higher than the jurisdictional threshold, but must also overcome the presumption against removal to federal court. *Lowdermilk v. U.S. Bank N.A.*, 479 F.3d 994 (9th Cir. 2007). A defendant's recitation of the "magical incantation" that the jurisdictional threshold has been met is simply insufficient to overcome the strong presumption against federal removal jurisdiction. *Gaus,* 980 F.2d at 567.

Here, Fannie Mae is not seeking *any* damages, let alone damages which would meet the $75,000.00 jurisdictional threshold. Fannie Mae merely seeks possession of the subject property plus $350.00 in attorney fees pursuant to the expedited unlawful detainer proceeding dictated by Idaho Code § 6-310. In fact, in an unlawful detainer action brought pursuant to Idaho Code § 6-310, *only* possession of the subject property may be sought. I.C. § 6-310. Idaho Code § 611E further states that if an

action for damages is combined with the action for possession, then the expedited procedure of Section 6-310 is unavailable.

Defendants contend that their answer and counterclaim will assert that Fannie Mae is not the true owner of the property. Notice of Removal, p.2. Defendants go on to assert that because the value of the subject property exceeds $75,000.00, the jurisdictional threshold is met. *Id*. This analysis is improper. Plaintiff is not seeking damages, nor could it, under Idaho Code § 6-310. Any amount that Defendants intend to claim in a future counterclaim is simply irrelevant and will not overcome the presumption for remand.

The minimum amount in controversy has not been met as required to confer federal diversity jurisdiction. Removal pursuant to 28 U.S.C. § 1441 is therefore improper and this Court should order the case remanded to state court.

2. *Federal Question Jurisdiction Does Not Exist*.

A district court also has original federal question jurisdiction over all civil matters which arise under federal laws, treaties, or the U.S. Constitution. 28 U.S.C. § 1331. Although Defendants do not specifically assert federal question jurisdiction in their Notice of Removal, some of their assertions seem to imply such a basis:

> Defendants claim that "the eviction action is without a proper basis and that FANNIE is NOT the true owner of the property and that the foreclosure sale was invalid. Defendants will more fully set out their defendants [sic] in an Answer and Counterclaim. . . .

Notice of Removal, p.2 (emphasis in original).

Federal question jurisdiction exists only when a federal question is apparent on the face of plaintiff's complaint. *Hunter*, 582 F.3d at 1042. This is known as the "well-pleaded complaint" rule. *Id*. A counterclaim and/or potential defense cannot confer a basis for removal. *Id*. Fannie Mae's complaint is based solely on a state expedited unlawful detainer procedure. Lacking any federal question on its face, Fannie Mae's complaint cannot be removed for federal question jurisdiction. This is true no matter what Defendants intend to claim in any future answer or counterclaim. *Id*.

Because the requirements of federal question jurisdiction cannot be met here, this Court should remand the case back to state court for its determination under state law.

B. Fannie Mae is Entitled to Attorney Fees.

Pursuant to 28 U.S.C. § 1447(c), an order of remand may require payment of costs and attorney fees. "'[A]bsent unusual circumstances, courts may award attorney's fees under § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal." *Patel v. Del Taco, Inc.*, 446 F.3d 996, 999-1000 (9th Cir. 2006) (*quoting Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141, 126 S.Ct. 704 (2005) (upholding award of attorney fees when improper basis for removal invoked by defendant).

In this case, Defendants' attempt to remove a state court case based entirely on a state unlawful detainer statute is objectively unreasonable. Fannie Mae's

complaint, in which no damages are sought, obviously does not meet the jurisdictional threshold of $75,000.00 or more in controversy to satisfy the requirement of 28 U.S.C. § 1332(a), and it does not allege any federal question. *See e.g., Harvard Real Estate-Allston, Inc. v. Kmart Corp*., 407 F.Supp.2d 317, 322 (D.Mass. 2005) (award of attorney fees especially justified when summary eviction proceeding improperly removed to federal court).

As in *Patel and Harvard Real Estate*, Defendant's attempted removal is frivolous, taken merely to delay the unlawful detainer hearing, and attorney fees should be awarded to Fannie Mae accordingly.

III.

CONCLUSION

This Court should grant Fannie Mae's Motion and remand the unlawful detainer action, Case No. CV 2011-106, to state court. Additionally, because Defendants' attempted removal is frivolous, Fannie Mae should be granted its fees and costs pursuant to 28 U.S.C. § 1447(c).

MARK D. PERISON, P.A.

DATED: July 12, 2011

By: /s/ Mark D. Perison
Mark D. Perison – of the Firm
Attorney for Federal National Mortgage Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 12, 2011, I filed the foregoing electronically through the CM/ECF system, which caused the following to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Brian J. Coffey
Attorney for Defendants

/s/ Mark D. Perison
Mark D. Perison

EXHIBIT C

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Attorney for Defendants

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

FEDERAL NATIONAL MORTGAGE ASSOCIATION, aka FANNIE MAE, a corporation created by the Congress of the United States, Plaintiff, v. OLVER PALMER and BARBARA PALMER, husband and wife; and DOES I through X, unknown occupants of the property commonly known as: 115 Riverside Drive, Horseshoe Bend, Boise County, Idaho. Defendants.	Case No. 11-CV-00238 **OPPOSITION TO MOTION TO REMAND**
OLVER PALMER and BARBARA PALMER, husband and wife, Counterclaimants, v. FEDERAL NATIONAL MORTGAGE ASSOCIATION, aka FANNIE MAE, a corporation created by the Congress of the United States Counterdefendant.	

Defendants, OLIVER PALMER and BARBARA PALMER (PALMERS), by and through their attorney of record, Brian J. Coffey, COFFEY LAW OFFICE, Oppose Plaintiff's Motion to Remand, as follows:

I.

INTRODUCTION

Plaintiff filed a complaint in state court seeking to evict the PALMERS from the PALMERS' home located at 115 Riverside Drive, Horseshoe Bend, Boise County, Idaho (the Property). Plaintiff's motion is based on the argument that this court lacks subject matter jurisdiction. PALMERS' Notice of Removal (see docket entry #1) states that jurisdiction is based on diversity. The Answer and Counterclaim (see docket entry #13) assert diversity as the primary basis for jurisdiction. PALMERS also contend there are other statutes that provide a basis for jurisdiction other than diversity, including 28 USC §1349, §1345, and §1346.

Plaintiff has not disagreed with PALMERS' assertion that Plaintiff is a corporation with its principal place of business outside the state of Idaho. Therefore, the sole issue regarding diversity jurisdiction is whether there is a sufficient amount in controversy. PALMERS assert there is more than $75,000 at issue in this case.

II.

THE AMOUNT IN CONTROVERSY EXCEEDS $75,000

Plaintiff argues that because it is not seeking damages of any kind, only possession of the Property, that the amount in controversy must necessarily be less than $75,000. This argument lacks merit. The Notice of Removal states that PALMERS contend the foreclosure sale was invalid (see para. 4, docket #1), and that Plaintiff is not the true owner of the Property (see para. 5, generally, docket #1). Therefore, the "controversy" at issue is over the legal ownership of the Property. Plaintiff has no right to evict the PALMERS if the foreclosure sale and resultant trustee's deed are invalid. Plaintiff's eviction action presumes ownership. PALMERS contend that Plaintiff's ownership should not be presumed. Even if the only issue before the court is the

propriety of Plaintiff's eviction action, the court would still have to decide the issue of ownership of the Property and the validity of the trustee's deed.

PALMERS contend the issue of ownership of the property suffices to confer jurisdiction in this court as long as the property is worth more than $75,000. PALMERS contend that it is. The Plaintiff's own complaint provides the facts establishing the property is worth more than $75,000. At paragraph V, Plaintiff avers that it was the highest bidder at the foreclosure sale of the Property that was conducted, albeit invalidly and without legal authority, on January 28, 2011. The Trustee's Deed attached to Plaintiff's complaint as Exhibit A, on page 2, paragraph (f), states that Plaintiff bid $153,139.43 at the foreclosure sale. If the Plaintiff was willing to bid over $153,000 for the Property on January 28, 2011, surely the court must conclude, and even Plaintiff should agree, the value of the house, and therefore the amount in controversy, exceeds $75,000.

On July 31, 2011, PALMERS filed and served their Answer and Counterclaim (see docket entry #13) to Plaintiff's complaint. The Counterclaim for quiet title squarely puts the issue of ownership of the Property before the court. In addition to the issue of ownership of the Property, the Counterclaim also puts before the court the issue of who, if anyone, was or may be entitled to claim an interest in the Property through the deed of trust, which was the instrument that was used to improperly foreclose on the PALMERS' home.

The PALMERS executed a Promissory Note and granted a Deed of Trust for the Property. It was the Deed of Trust that purportedly allowed Plaintiff to initiate and conduct the foreclosure sale. Therefore, another key issue in controversy is whether Plaintiff, or some other person or entity, is entitled to claim an interest in the Deed of Trust or not. Assuming the amount of the bid noted in the trustee's deed was a credit bid, there was apparently more than

$75,000 owing on the note secured by the deed of trust. Surely a post-foreclosure eviction case implicates the identity of the proper beneficiary of the Deed of Trust as part of the controversy.

III.

THIS COURT HAS JURISDICTION BASED ON 28 USC §1349 BECAUSE FANNIE MAE IS A CORPORATION ORGANIZED UNDER FEDERAL LAW AND OF WHICH MORE THAN ONE-HALF IS OWNED BY THE UNITED STATES

28 USC §1349. Corporation Organized under Federal Law As Party, provides:

> The district courts shall not have jurisdiction of any civil action by or against any corporation upon the ground that it was incorporated by or under an Act of Congress, unless the United States is the owner of more than one-half of its capital stock.

According to FANNIE MAE's 2011 10-K filing with the SEC (see true and correct copy of 2011 10-K attached as Exhibit 1 to this Opposition), the United States Treasury Department, and therefore the United States, owns 79.9% of the stock of FANNIE MAE. The United States has owned this majority of FANNIE MAE since September 7, 2008. This was a widely publicized event and is essentially common knowledge. FANNIE MAE is certainly not in a position to deny it, and should admit as much in its corporate disclosure statement. PALMERS ask the court to take judicial notice of the 10-K filing which was obtained directly from the FANNIE MAE corporate governance section of its website (http://phx.corporate-ir.net/phoenix.zhtml?c=108360&p=irol-secAnnual&control_SelectGroup=Annual%20Filings).

This statute confers subject matter jurisdiction on this court over this case.

IV.

THIS COURT HAS JURISDICTION BASED ON THE CONSERVATORSHIP OF FANNIE MAE BY AN AGENCY OF THE UNITED STATES OF AMERICA

As of September 6, 2008, FANNIE MAE has been under a conservatorship by the Federal Housing Finance Agency ("FHFA"), an agency of the United States of America, and as a

result of 12 USC §4617(b)(2)(a)(1), FANNIE MAE lost all of its rights, titles, powers and privileges to FHFA. 12 USC §4617(b)(2)(a)(1) provides as follows:

(b) **Powers and Duties of the Agency as Conservator or Receiver**

(2) **General powers**

(A) **Successor to regulated entity**
The Agency shall, as conservator or receiver, and by operation of law, immediately succeed to--

(i) all rights, titles, powers, and privileges of the regulated entity, and of any stockholder, officer, or director of such regulated entity with respect to the regulated entity and the assets of the regulated entity.

This section makes it clear that FHFA is the only entity that has the legal authority to assert any rights or powers that might belong to FANNIE MAE regarding the ownership and possession of the Property. At the very lease, FANNIE MAE does not have the authority to sue PALMERS in its own name regarding the loan at issue in this case.

The participation of FHFA in litigation as conservator of FANNIE MAE is made clear by the following subsections of 12 USC §4617(b):

(10) **Suspension of legal actions**

(A) **In general**
After the appointment of a conservator or receiver for a regulated entity, the conservator or receiver may, in any judicial action or proceeding to which such regulated entity is or becomes a party, request a stay for a period not to exceed--
(i) 45 days, in the case of any conservator; and
(ii) 90 days, in the case of any receiver.

(B) **Grant of stay by all courts required**
Upon receipt of a request by the conservator or receiver under subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

(11) **Additional rights and duties**

(A) **Prior final adjudication**
The Agency shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Agency as conservator or receiver.

(B) **Rights and remedies of conservator or receiver**

In the event of any appealable judgment, the Agency as conservator or receiver--
(i) shall have all of the rights and remedies available to the regulated entity (before the appointment of such conservator or receiver) and the Agency, including removal to Federal court and all appellate rights; and
(ii) shall not be required to post any bond in order to pursue such remedies.

The application and effect of the conservatorship by FHFA over FANNIE MAE in this case establishes jurisdiction under 28 USC §1345, or 28 USC §1346, or both.

28 USC §1345. United States As Plaintiff, provides:

> Except as otherwise provided by Act of Congress, the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress.

28 USC §1346(f). United States As Defendant, provides:

> The district courts shall have exclusive original jurisdiction of civil actions under section 2409a to quiet title to an estate or interest in real property in which an interest is claimed by the United States.

Under either or both of these sections, this court has jurisdiction over this case. PALMERS contend that FHFA should have brought the action in its own name, or at the very least FANNIE MAE should have brought the action on FHFA's behalf. Because FHFA is the proper Plaintiff in the original eviction action, and is in fact the owner of all of FANNIE MAE's property, §1345 confers jurisdiction on the court over the case.

Because PALMERS have brought a quiet title action regarding the Property, and because ownership that Property is being claimed by FANNIE MAE, FHFA's ownership is necessarily implicated. Therefore, §1346 confers jurisdiction over the case.

V.

CONCLUSION

The amount in controversy exceeds $75,000. FANNIE MAE is a corporation organized under federal law that is owned almost 80% by the United States. FANNIE MAE is the conservatee of a United States agency. Based on all of the documents in the court's records and the file in this matter, PALMERS contend this court has subject matter jurisdiction and requests that Plaintiff's Motion to Remand be denied.

DATED: August 2, 2011

By_____/s/ Brian J. Coffey_____
Brian J. Coffey
Attorney for Defendants

CERTIFICATE OF SERVICE

Brian J. Coffey, under penalty of perjury under the laws of the United States, declares as follows:

1. That I am a citizen of the United States, over the age of 21 years, and competent to be a witness herein;

2. That on August 2, 2011, I served copies of the:

OPPOSITION TO PLAINTIFF'S MOTION FOR REMAND

as follows:

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DATED: August 2, 2011

By_____/s/ Brian J. Coffey_____
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