

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Bosco Credit, LLC v. Wilton Short, et al.

Bosco Credit · No. 25-cv-05489-RFL · Decided November 24, 2025

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA BOSCO CREDIT, LLC, Case No. 25-cv-05489-RFL Plaintiff, ORDER REMANDING CASE v. Re: Dkt. Nos. 2, 12, 16, 20, 22 WILTON SHORT, et al., Defendants. Defendant Wilton Short, who is representing himself, removed this action from Contra Costa County Superior Court. (Dkt. No. 1.) Short has filed a motion to proceed in forma pauperis (Dkt.

No. 2), which is GRANTED. On September 10, 2025, the Court issued an Order to Show Cause why the case should not be remanded for lack of subject matter jurisdiction. (Dkt. No. 12 (“OSC”).) In response, Short sought dismissal of the action and of his co-Defendant, default judgment in his favor, and leave to file a cross-complaint, and did not address the lack of subject matter jurisdiction described in the OSC.

(Dkt. Nos. 14, 16–20, 22.) However, because there is no subject matter jurisdiction over this removed action, the only available remedy is remand, and the Court has no authority to dismiss claims on the merits or enter default judgment in either party’s favor.¹ With respect to Short’s proposed cross-complaint (Dkt. No. 16-1), the claims asserted there cannot create subject matter jurisdiction over this action.

Plaintiff Bosco’s “complaint, [is] the only pleading that can properly provide grounds for removal in this case.” *Kelkris Assocs., Inc. v. 1 Short* also may not voluntarily dismiss Defendant Tina Short (Dkt. No. 19), because Short is not the plaintiff in this action. See Fed. R. Civ. P. 41(a)(1). *Devlin*, No. 15-cv-00582-WHA, 2015 WL 1516898, at *1 (N.D. Cal. Apr.

1, 2015) (holding that a “cross-complaint cannot provide the basis for federal-question jurisdiction”); see also *K2 America Corp. v. Roland Oil & Gas, LLC*, 653 F.3d 1024, 1029 (9th Cir. 2011) (“Federal jurisdiction cannot hinge upon defenses or counterclaims, whether actual or anticipated.”).

For the reasons stated in this Order and in the OSC, this case is remanded to Contra Costa County Superior Court. Short’s pending motions (Dkt. Nos. 16, 20, 22) are DENIED AS MOOT. The Order to Show Cause is DISCHARGED. IT IS SO ORDERED. Dated: November 24, 2025 RITA F. LIN United States District Judge

