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CC: order, docket, remand letter to Los Angeles Superior Court,  
Bellflower, No. 12 C 00438

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DEUTSCHE BANK NATIONAL  
COMPANY, as Trustee,

Plaintiff,

v.

DELE C. SILVA, and DOES 1–5,

Defendants.

Case No. 2:12-cv-03869-ODW (JEMx)

**ORDER REMANDING CASE TO LOS  
ANGELES SUPERIOR COURT**

The Court is in receipt of Defendant Dele C. Silva's Notice of Removal (ECF No. 1) and Plaintiff Deutsche Bank National Company's May 8, 2012 Motion to Remand (ECF No. 5). Having carefully considered the papers filed in conjunction with Defendant's Notice and Plaintiff's Motion, the Court determines that it lacks subject matter jurisdiction over this case. Accordingly, the case is hereby **REMANDED** to Los Angeles Superior Court.

Federal courts are courts of limited jurisdiction, having subject matter jurisdiction only over matters authorized by the Constitution and Congress. *See, e.g., Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A suit filed in state court may be removed to federal court if the federal court would have had original jurisdiction over the suit. 28 U.S.C. § 1441(a). A removed action must be

1 remanded to state court if the federal court lacks subject matter jurisdiction. 28 U.S.C.  
2 § 1447(c).

3 The party seeking removal bears the burden of establishing federal jurisdiction.  
4 *Durham v. Lockheed Martin Corp.*, 445 F.3d 1247, 1252 (9th Cir. 2006) (citing *Gaus*  
5 *v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992)). Here, Defendant’s Notice of  
6 Removal purports to be premised on federal question jurisdiction under 28 U.S.C.  
7 § 1331. It also, however, contains amount-in-controversy allegations suggesting  
8 Defendant may also have intended to proceed on diversity jurisdiction grounds in the  
9 alternative. *See* 28 U.S.C. § 1332. The Court will briefly address both.

10 “The presence or absence of federal-question jurisdiction is governed by the  
11 ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only  
12 when a federal question is presented on the face of the plaintiff’s properly pleaded  
13 complaint.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). “Thus, the  
14 plaintiff is the master of his complaint and may avoid federal jurisdiction by relying  
15 exclusively on state law. It is settled law that a case may not be removed to federal  
16 court on the basis of a federal defense . . . .” *Hunter v. Phillip Morris USA*, 582 F.3d  
17 1039, 1042–43 (9th Cir. 2009) (citations omitted) (internal quotation marks omitted);  
18 *see also Franchise Tax Bd. of Cal. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 10  
19 (1983) (an actual or anticipated federal defense is not sufficient to confer jurisdiction).

20 A case removed from state court should be remanded if it appears that it was  
21 removed improvidently. 28 U.S.C. § 1447(c). “Because the ‘removal statutes are  
22 strictly construed against removal,’ doubts about removal must be resolved in favor of  
23 remand.” *Dodd v. John Hancock Mut. Life Ins. Co.*, 688 F. Supp. 564, 566 (E.D. Cal.  
24 1988) (quoting *Libhart v. Santa Monica Dairy Co.*, 592 F.2d 1062, 1064 (9th Cir.  
25 1979)); *see also Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (“Federal  
26 jurisdiction must be rejected if there is any doubt as to the right of removal in the first  
27 instance.”).

1 To the extent Defendant contends this Court has jurisdiction over this case  
2 pursuant to § 1331, “because this is an unlawful detainer action, a federal question  
3 does not present itself.” *Aurora Loan Servs. v. De La Rosa*, No. 11-912, 2011 U.S.  
4 Dist. LEXIS 69217, at \*3 (C.D. Cal. June 27, 2011); *see also IndyMac Fed. Bank,*  
5 *F.S.B. v. Ocampo*, No. 09-2337, 2010 WL 234828, at \*2 (C.D. Cal. Jan. 13, 2010)  
6 (sua sponte remanding an action to state court for lack of subject matter jurisdiction  
7 where plaintiff’s complaint contained only an unlawful detainer claim); *Galileo Fi. v.*  
8 *Miin Sun Park*, No. 09-1660, 2009 WL 3157411, at \*1 (C.D. Cal. Sept. 24, 2009)  
9 (“Here, the complaint only asserts a claim for unlawful detainer, a cause of action that  
10 is purely a matter of state law. Thus, from the face of the complaint, it is clear that no  
11 basis for federal question jurisdiction exists.”). Additionally, the Complaint does not  
12 allege any other federal question, and any federal defense Defendant raises is  
13 irrelevant with regard to jurisdiction. Therefore, the Court does not have jurisdiction  
14 over this case under § 1331.

15 Defendant may alternatively contend that this Court has diversity jurisdiction  
16 over this case pursuant to § 1332. Section 1332(a) provides that “the district courts  
17 shall have original jurisdiction of all civil actions where the matter in controversy  
18 exceeds the sum or value of \$75,000.00, exclusive of interest and costs,” and is  
19 between parties with diverse citizenship. 28 U.S.C. § 1332(a). Diversity jurisdiction  
20 does not exist in this matter.

21 For a federal court to exercise diversity jurisdiction, there must be “complete”  
22 diversity between the parties, and the amount in controversy must exceed \$75,000.00,  
23 exclusive of interest and costs. 28 U.S.C. § 1332(a). Under the “legal certainty”  
24 standard, a federal court lacks subject matter jurisdiction under § 1332 where “upon  
25 the face of the complaint, it is obvious that the suit cannot involve the necessary  
26 amount.” *Geographic Expeditions, Inc. v. Estate of Lhotka ex rel. Lhotka*, 599 F.3d  
27 1102, 1106 (9th Cir. 2010) (quoting *St. Paul Mercury Indemnity Co. v. Red Cab Co.*,  
28 303 U.S. 283, 292 (1938)). “In actions seeking declaratory or injunctive relief, it is

1 well established that the amount in controversy is measured by the value of the object  
2 of the litigation.” *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002) (quoting  
3 *Hunt v. Wash. State Apple Adver. Comm’n*, 432 U.S. 333, 347 (1977)).

4 Here, Defendant’s removal papers allege that the amount in controversy  
5 “exceeds \$75,000.00, exclusive of interest and costs,” as the “Complaint concerns a  
6 Deed of Trust with an original balance of \$412,500.00 with an alleged purchase price  
7 of \$486,586.97.” (Notice of Removal 4.) According to Defendant, “The amount in  
8 controversy is satisfied because the subject matter of Plaintiff’s litigation is a  
9 challenge to a security interest in a loan in the amount of \$412,500.00, and Plaintiff  
10 seeks to gain possession of Defendant’s property.” (*Id.*)

11 Defendant misconstrues the nature of this action. This *unlawful detainer* action  
12 does not “challenge . . . a security interest in a loan,” as Plaintiff has already  
13 purchased the subject property “under a power of sale contained in a Deed of Trust  
14 dated May 11, 2004” and “Plaintiff’s title pursuant to the sale has been duly perfected  
15 and a Trustee’s Deed conveying title to plaintiff has been duly recorded in the county  
16 where the Property is situated.” (Compl. ¶ 4.) As a result, “Plaintiff is the owner of,  
17 and [is] entitled to immediate possession of[,] the property.” (Compl. ¶ 5.)  
18 Accordingly, the object of this unlawful detainer action is not the amount of the  
19 challenged security interest in the property, as Defendant alleges, but rather the fair  
20 rental value of the premises Defendant now owes Plaintiff—\$50.00 per day—for  
21 remaining in a home that no longer belongs to Defendant from January 3, 2012,  
22 through entry of judgment. (Compl. 3.) Indeed, the face of Plaintiff’s Complaint  
23 indicates that Plaintiff does not demand an amount in excess of \$10,000.00.  
24 Therefore, the amount in controversy in this case does not exceed \$75,000.00,  
25 exclusive of interest and costs.

26 For the reasons discussed above, the Court finds that it lacks jurisdiction over  
27 this matter and hereby **REMANDS** this case to the Los Angeles County Superior  
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1 Court. The June 11, 2012 hearing on Plaintiff's Motion to Remand is **VACATED**,  
2 and no appearances are necessary. The Clerk of Court shall close this case.

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4 **IT IS SO ORDERED.**

5  
6 May 9, 2012

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9 **HON. OTIS D. WRIGHT, II**  
10 **UNITED STATES DISTRICT JUDGE**  
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