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6 cc:order, docket, remand letter to
7 Los Angeles Superior Court, Stanley Mosk Courthouse
8 No. 12U15828

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

11 GREAT WESTERN CAPITAL LLC.,

12 Plaintiff,

13 v.

14 GLORIA C. BARRERA and DOES 1–10,
15 Inclusive,

16 Defendants.

Case No. 2:13-cv-02658-ODW (JCx)

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

17 The Court has received Defendant Gloria Barrera’s second Notice of Removal
18 of this action to federal court. (ECF No. 1); *see also Great Western Capital LLC v.*
19 *Barrera*, No. 2:13-cv-00163-ABC-CW (C.D. Cal. filed Jan. 9, 2013). Having
20 carefully considered the papers filed in conjunction with Barrera’s Notice, the Court
21 determines that it lacks subject-matter jurisdiction over this case. Accordingly, this
22 case is once again **REMANDED** to Los Angeles Superior Court.

23 Federal courts are courts of limited jurisdiction, having subject-matter
24 jurisdiction only over matters authorized by the Constitution and Congress. *See, e.g.,*
25 *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A defendant
26 may remove an action to federal court based on federal-question or diversity
27 jurisdiction. 28 U.S.C. § 1441(a). But a “strong presumption” exists against removal;
28 as a result, “it is to be presumed that a cause lies outside the limited jurisdiction of the

1 federal courts and the burden of establishing the contrary rests upon the party
2 asserting jurisdiction.” *Hunter v. Philip Morris USA*, 582 F.3d 1039, 1042 (9th Cir.
3 2009) (alterations omitted) (quoting *Abrego Abrego v. Dow Chem. Co.*, 443 F.3d 676,
4 684 (9th Cir. 2006)). A removed action must be remanded to state court if the federal
5 court lacks subject-matter jurisdiction, 28 U.S.C. § 1447(c), and the Court must
6 resolve “all ambiguity in favor of remand to state court.” *Hunter*, 582 F.3d at 1042;
7 *see also Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (“Federal jurisdiction
8 must be rejected if there is any doubt as to the right of removal in the first instance.”).

9 Barrera seeks to remove this routine unlawful-detainer action on the basis of
10 federal diversity jurisdiction. But diversity jurisdiction does not exist in this matter.

11 For a federal court to exercise diversity jurisdiction, there must be “complete”
12 diversity between the parties, and the amount in controversy must exceed \$75,000.00,
13 exclusive of interest and costs. 28 U.S.C. § 1332(a). Under the “legal certainty”
14 standard, a federal court lacks subject-matter jurisdiction under § 1332 where “upon
15 the face of the complaint, it is obvious that the suit cannot involve the necessary
16 amount.” *Geographic Expeditions, Inc. v. Estate of Lhotka ex rel. Lhotka*, 599 F.3d
17 1102, 1106 (9th Cir. 2010) (quoting *St. Paul Mercury Indemnity Co. v. Red Cab Co.*,
18 303 U.S. 283, 292 (1938)).

19 “In actions seeking declaratory or injunctive relief, it is well established that the
20 amount in controversy is measured by the value of the object of the litigation.” *Cohn*
21 *v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002) (quoting *Hunt v. Wash. State*
22 *Apple Adver. Comm’n*, 432 U.S. 333, 347 (1977)). And in unlawful-detainer actions,
23 the title to the property is not the object of the litigation—only the right to possession.
24 *Evans v. Superior Court*, 67 Cal. App. 3d 162, 170 (1977). The amount in
25 controversy in an unlawful-detainer action is therefore determined by the amount of
26 damages sought in the Complaint, not by the value of the subject property. *Id.*

27 Barrera insists the requisite amount in controversy has been met because “the
28 amount of the residence at issue for the Defendant exceeds the jurisdictional

1 prerequisite of \$75,000.00, exclusive of interest and costs.” (Notice of Removal ¶ 7.)
2 But this action concerns Great Western’s right to lawful *possession* of the property in
3 question, not the *title* to it. *Evans*, 67 Cal. App. 3d at 170. Further, Great West only
4 seeks damages in the amount of \$150 per day since November 21, 2012, as well as its
5 costs. Therefore, the amount in controversy in this case does not exceed \$75,000.00,
6 exclusive of interest and costs.

7 Finally, the Court notes that this is Barrera’s second failed attempt at removal.
8 *See Great Western Capital LLC v. Barrera*, No. 2:13-cv-00163-ABC-CW (C.D. Cal.
9 filed Jan. 9, 2013). Last time Barrera attempted removal, Judge Collins explained
10 very clearly that “the amount in controversy does not exceed the diversity-jurisdiction
11 threshold of \$75,000” and that “even if the amount in controversy were met,
12 Defendant resides in the forum state, so she cannot properly remove the action.”
13 *Barrera*, No. 2:13-cv-00163-ABC-CW, ECF No. 6 (C.D. Cal. Jan 14, 2013). And yet
14 here we are again. Astonishingly, Barrera’s Notice of Removal before this Court is
15 *identical* to her prior the notice of removal; it neither advances new jurisdictional
16 theories nor pleads new facts that establish federal jurisdiction. This practice patently
17 violates Federal Rule of Civil Procedure 11(b). Barrera is therefore warned that
18 should she attempt to remove this inherently unremovable matter again, this Court *will*
19 sanction her *and* her counsel \$1,000 for violation of Rule 11(b) and report Barrera’s
20 counsel’s conduct to the California State Bar.

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1 For the reasons discussed above, the Court **REMANDS** this case to the Los
2 Angeles County Superior Court, Case No. 12U15828. *See* 28 U.S.C. § 1447(c).

3 **IT IS SO ORDERED.**

4
5 April 17, 2013

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

10 **CC:**

11 [Honorable Audrey B. Collins](#)

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