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2013 MAY -9 PM 4:15

CLERK OF DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

BIR LLC,  
  
Plaintiff,  
  
v.  
  
KEVIN BROWN, et al.,  
  
Defendants.

CASE NO. CV 13-2935 UA (DUTYx)

ORDER SUMMARILY REMANDING  
IMPROPERLY REMOVED ACTION

The Court remands this unlawful detainer action to state court summarily because it was improperly removed and this Court lacks subject matter jurisdiction.

On April 25, 2013, Defendant Kevin Brown lodged a Notice of Removal ("Notice"), seeking to remove to this Court what appears to be a routine California state court unlawful detainer action. [See Notice, Exhibit A.] Together with the removal notice, Defendant presented an application to proceed without prepayment of the filing fee. The Court has denied the latter application in a separate order because the action

1 was not properly removed. To prevent the action from remaining in  
2 jurisdictional limbo, the Court now issues this order to remand the  
3 action to state court on the following grounds.

4 Plaintiff BIR LLC could not have brought this action in federal  
5 court in the first instance, in that no basis for original federal  
6 jurisdiction appears from the complaint, and the Notice of Removal does  
7 not competently allege facts supporting either diversity or federal-  
8 question jurisdiction. Removal, therefore, is improper. See 28 U.S.C.  
9 § 1441(a); Exxon Mobil Corp. v. Allapattah Svcs., Inc., 545 U.S. 546,  
10 563, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Specifically,  
11 citizenship of the parties is unclear from the pleadings, and even if  
12 complete diversity of citizenship exists, the amount in controversy does  
13 not exceed the jurisdictional threshold of \$75,000. [See Notice,  
14 Exhibit A (Complaint for Unlawful Detainer, alleging that amount  
15 demanded does not exceed \$10,000).] Additionally, Defendant could not  
16 properly remove the action on the basis of diversity jurisdiction in any  
17 event, because he resides in California, the forum state. See 28 U.S.C.  
18 § 1441(b).

19 Nor does Plaintiff's unlawful detainer action raise any federal  
20 legal question. See 28 U.S.C. §§ 1331, 1441(b). Defendant asserts in  
21 his removal notice that Plaintiff violated various federal laws prior to  
22 filing the unlawful detainer action, but that is immaterial. "For  
23 better or for worse . . . a defendant may not remove a case to federal  
24 court" on the basis of federal-question jurisdiction "unless the  
25 plaintiff's complaint establishes that the case 'arises under' federal  
26 law." Franchise Tax Bd. v. Const. Laborers Vacation Trust, 463 U.S. 1,  
27 10, 103 S. Ct. 2841, 77 L. Ed. 2d 420 (1983).

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1           Accordingly, this matter is **remanded** to the Superior Court of  
2 California for the County of Los Angeles, for lack of subject matter  
3 jurisdiction pursuant to 28 U.S.C. § 1447(c). The Clerk is directed to  
4 send a certified copy of this order to the state court and to serve  
5 copies of this order on the parties.

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7           **IT IS SO ORDERED.**

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9 DATED: 5/6, 2013

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14 GEORGE H. KING  
15 CHIEF UNITED STATES DISTRICT JUDGE  
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