

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

CIVIL MINUTES – GENERAL

Case No. LA CV13-04750 JAK (RZx)

Date August 20, 2013

Title ColFin AI CA 5, LLC v. Patrick Mora, et al.

Present: The Honorable **JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE**

Andrea Keifer

Not Reported

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings: (IN CHAMBERS) ORDER REMANDING ACTION TO LOS ANGELES
COUNTY SUPERIOR COURT JS-6**

I. Background

On May 7, 2013, ColFin AI CA 5, LLC (“Plaintiff”) filed an Unlawful Detainer action against Patrick Mora and Martha Emilia Higuera (“Defendants”) seeking possession of the property located at 11732 Oxnard Street, North Hollywood, CA 91606. Dkt. 1, Exh. A. On July 1, 2013, Defendants removed the action to this Court. Dkt. 1. For the reasons stated in this Order, the action is REMANDED to the Superior Court.

II. Analysis

As a court of limited jurisdiction, see *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994), this Court must determine the issue of subject matter jurisdiction before reaching the merits of a case, see *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94 (1998).

Defendants assert that this court has federal question jurisdiction over this action. However, no federal question jurisdiction is present in this case. Federal courts have original jurisdiction over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. “For a case to arise under federal law, a plaintiff’s well-pleaded complaint must establish either (1) that federal law creates the cause of action or (2) that the plaintiff’s asserted right to relief depends on the resolution of a substantial question of federal law. Federal jurisdiction cannot hinge upon defenses or counterclaims, whether actual or anticipated.” *K2 Am. Corp. v. Roland Oil & Gas, LLC*, 653 F.3d 1024, 1029 (9th Cir. 2011) (internal quotations and citations omitted). In this case, Plaintiff’s Unlawful Detainer complaint does not include a cause of action that arises under federal law. Unlawful Detainer actions, which concern the right to the possession of real property, arise under state law. Although Defendants seek to raise defenses that are based on federal laws, that is not a basis for federal question jurisdiction. *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 10-12 (1983); *Wayne v. DHL Worldwide Express*, 294 F.3d 1179, 1183 (9th Cir. 2002).

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III. Attorney's Fees

Plaintiff requests attorney's fees for time spent preparing its motion to remand the case, pursuant to 28 U.S.C. § 1447(c). Dkt. 7, p. 8. Plaintiff requests fees in the amount of \$750 for fees incurred researching and preparing the motion. *Id.* In support, Plaintiff offers the declaration of Rebecca Hufford-Cohen, Plaintiff's attorney, stating that she spent three hours preparing the motion to remand and that her reasonable hourly rate is \$250. *Id.* at 11. The issues in this case are not novel or complex. Accordingly, the Court awards attorney's fees in the amount of \$250.

IV. Conclusion

Because this Court does not have jurisdiction over this Unlawful Detainer action, the matter is REMANDED to the Los Angeles County Superior Court, Santa Monica Courthouse, Case No. 13R02859. The Court awards Plaintiff's counsel attorney's fees in the amount of \$250.

IT IS SO ORDERED.

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