

1 Simply stated, Plaintiff AJJA Investments, LLC – incorrectly named in the
2 removal notice as “AJAJ” – could not have brought this action in federal court in the first
3 place, in that neither diversity jurisdiction nor federal-question jurisdiction exists, and
4 therefore Defendant is not allowed to remove the action. 28 U.S.C. § 1441(a); *see Exxon*
5 *Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563, 125 S.Ct. 2611, 162 L.Ed.2d 502
6 (2005). Defendant does not assert diversity jurisdiction. (Nor could she successfully do
7 so. Even if complete diversity of citizenship existed and if Defendant had relied upon such
8 jurisdiction, the amount in controversy in the removed action does not exceed the
9 jurisdictional threshold of \$75,000. On the contrary, Plaintiff’s unlawful-detainer
10 complaint bears a caption indicating that the amount in controversy does not exceed
11 \$10,000. Also, because Defendant resides in the forum state, Defendant cannot properly
12 remove the action, at least to the extent diversity jurisdiction is asserted. 28 U.S.C.
13 § 1441(b).)

14 Nor does Plaintiff’s unlawful detainer action raise any federal legal question.
15 In any event, *Defendant’s* contentions based on federal law are not relevant to
16 removability. “For better or for worse . . . a defendant may not remove a case to federal
17 court” based on a federal question “unless the *plaintiff’s complaint* establishes that the
18 case ‘arises under’ federal law.” *Franchise Tax Bd. v. Construction Laborers Etc.*, 463
19 U.S. 1, 10, 103 S.Ct. 2841, 77 L.Ed.2d 420 (1983) (emphasis in original).

20 Instead, Defendant asserts a third basis for removal, namely “civil rights
21 removal” pursuant to 28 U.S.C. § 1443(1). That statute states as follows, in pertinent part:

22
23 Any of the following civil actions . . . , commenced in a State court
24 may be removed by the defendant to the district court of the United States for
25 the district and division embracing the place wherein it is pending:

- 26 (1) Against any person who is denied or cannot enforce in the courts
27 of such State a right under any law providing for the equal civil rights
28

1 of citizens of the United States, or of all persons within the jurisdiction
2 thereof
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4 To support removal under § 1443(1), the notice of removal must satisfy a
5 two-part test. “First, the petitioners must assert, as a defense to the prosecution, rights that
6 are given to them by explicit [federal] statutory enactment protecting equal racial civil
7 rights.” *Patel v. Del Taco*, 446 F.3d 996, 999 (9th Cir.2006) (quoting *California v.*
8 *Sandoval*, 434 F.2d 635, 636 (9th Cir.1970)). “Second, petitioners must assert that the
9 state courts will not enforce that right, and that allegation must be supported by reference
10 to a state statute or a constitutional provision that purports to command the state courts to
11 ignore the federal rights.” *Patel*, 446 F.3d at 999 (quoting *Sandoval*, 434 F.2d at 636).

12 Defendant identifies neither any “explicit [federal] statutory enactment
13 protecting equal racial civil rights” nor any state statute or constitutional provision that
14 “purports to command the [California] courts to ignore the federal rights.” She complains
15 that the state trial court made numerous errors, *see* Ntc. at 4, and makes oblique references
16 to the need for “true color-blind application and enforcement of federal civil rights law[.]”
17 *Id.* But her allegations fail to satisfy the criteria for a valid civil rights removal. Federal
18 courts in California have routinely rejected recent attempts at “civil rights removals” of
19 unlawful detainer actions. *See, e.g., Investment Mgmt. Co. LLC v. Cholakian*, No. CV 13-
20 2408 MMM JCx, 2013 WL 2417952 (C.D. Cal May 31, 2013), at *4-*5; *Wells Fargo*
21 *Bank NA v. Vann*, No. CV 13-1146 YGR, 2013 WL 1856711 (N.D. Cal. May 2, 2013), at
22 *3-*4; *Federal Nat’l Mtg. Ass’n v. Perez*, No. CV 13-1082 MMM SHx, 2013 WL
23 1010535 (C.D. Cal. Mar. 14, 2013); *Canterbury Lots 68, LLC v. De La Torre*, No. CV 13-
24 0712 MMM RZx, 2013 WL 781974 (C.D. Cal. Feb. 28, 2013). And rightly so, for
25 Defendant’s assertion that California’s courts are comparable, in terms of statute-
26 supported racism, to those of the “Jim Crow” south in generations past, *see* Ntc. at 5, is
27 frivolous. This improperly-removed action merits the same fate as the foregoing cases,
28 namely remand.

1 Finally, even if removal were substantively proper, this particular removal
2 *notice* is invalid because the sole named defendant did not sign it, with no explanation for
3 the non-joinder. 28 U.S.C. § 1446(b)(2)(A); *see Hewitt v. City of Stanton*, 798 F.2d 1230,
4 1232 (9th Cir. 1986).

5 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the
6 Superior Court of California, Los Angeles County, for lack of subject matter jurisdiction
7 pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified copy of this Order to
8 the state court; and (3) that the Clerk serve copies of this Order on the parties.

9 IT IS SO ORDERED.

10 DATED: 8/5/13

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14 GEORGE H. KING
15 CHIEF UNITED STATES DISTRICT JUDGE
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