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

RAC DEVELOPMENT, INC.,

Plaintiff,

v.

JACQUELINE BADIO; DOES 1–10,

Defendants.

Case No. 2:13-cv-06133-ODW(AJWx)

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

On August 21, 2013, Defendant Jacqueline Badio removed this case to this Court—for the second time. (ECF No. 1.) Once again, the Court finds that removal is improper. The Court accordingly **REMANDS** this case to Los Angeles County Superior Court.

To be clear, this unlawful-detainer action does not now—nor will it ever—belong in federal court. First, this action does not give rise to a federal question. “The presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). A plaintiff may therefore avoid federal jurisdiction by relying exclusively on state law, and “federal jurisdiction cannot be predicated on an actual or anticipated defense.” *Vaden v. Discover Bank*,

1 556 U.S. 49, 60 (2009); *see also Hunter*, 582 F.3d 1039, 1042–43 (9th Cir. 2009) (“It
2 is settled law that a case may not be removed to federal court on the basis of a federal
3 defense.” (internal quotation marks omitted)).

4 Courts have repeatedly held that unlawful-detainer actions do not present a
5 federal question. *Aurora Loan Servs. v. De La Rosa*, No. 11-912, 2011 U.S. Dist.
6 LEXIS 69217, at *3 (C.D. Cal. June 27, 2011). Moreover, HSBC’s First Amended
7 Complaint does not allege any other federal question, and *any federal defense*
8 *Defendants raise is irrelevant to jurisdiction.* *Vaden*, 556 U.S. at 60; *Hunter*, 582
9 F.3d at 1042–43.

10 Second, the amount in controversy does not exceed the diversity jurisdiction
11 threshold of \$75,000. *See* 28 U.S.C. §§ 1332, 1441(b). “In actions seeking
12 declaratory or injunctive relief, it is well established that the amount in controversy is
13 measured by the value of the object of the litigation.” *Cohn v. Petsmart, Inc.*, 281
14 F.3d 837, 840 (9th Cir. 2002) (quoting *Hunt v. Wash. State Apple Adver. Comm’n*,
15 432 U.S. 333, 347 (1977)). And in unlawful-detainer actions, the title to the property
16 is not the object of the litigation—only the right to possession. *See Evans v. Super.*
17 *Ct.*, 67 Cal. App. 3d 162, 170 (1977). The amount in controversy in an unlawful-
18 detainer action is therefore determined by the amount of damages sought in the
19 complaint, not by the value of the subject property. *Id.*

20 This is also not the first time Badio has tried to remove this case. The Court
21 promptly remanded this case after Badio’s first removal attempt. *RAC Dev., Inc. v.*
22 *Badio*, No. 2:13-cv-5739-ODW(AJWx), ECF No. 4 (C.D. Cal. filed Aug. 8, 2013). A
23 party may not file a second notice of removal based on the same grounds as its first
24 notice of removal where the court remanded the party’s first removal. *St. Paul & C.*
25 *Ry. Co. v. McLean*, 108 U.S. 212, 217 (1883); *see Gibson v. Chrysler Corp.*, 261 F.3d
26 927, 948 (9th Cir. 2001). The Court hereby warns Badio that filing a third notice of
27 removal on the same grounds would be a violation of Federal Rule of Civil Procedure
28

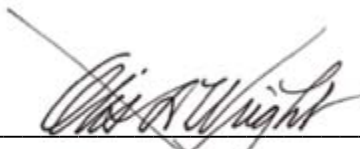
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11(b)(2) and would subject her to \$1,000 in sanctions or other sanctions in the Court's discretion.

The Court therefore finds that it lacks jurisdiction and **REMANDS** this case to Los Angeles County Superior Court, case number 13P02233.

IT IS SO ORDERED.

August 26, 2013



OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE