

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 14-9902 SVW (AJWx) Date January 9, 2015

Title Burbank Blvd Apartments Owner LLC v. Tova Cabessa, et al

JS - 6

Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Paul M. Cruz

N/A

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

N/A

N/A

Proceedings: IN CHAMBERS ORDER REMANDING THE CASE TO STATE COURT

Removal jurisdiction is disfavored. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). But it is proper if the case could have been filed in federal court originally. 28 U.S.C. § 1441; *Syngenta Crop Protection, Inc. v. Henson*, 537 U.S. 28, 33 (2002). The removing party bears the burden of establishing subject-matter jurisdiction. *Gaus*, 980 F.2d at 566.

Tova and Michael Cabessa premised removal on federal question jurisdiction. (Doc. 1, Notice of Removal, 2:24-3:12). According to the well-pleaded complaint rule, a federal question must inhere from the plaintiff's claims for relief. *ARCO Envtl. Remediation, LLC v. Dept. of Health and Envtl. Quality*, 213 F.3d 1108, 113 (9th Cir. 2000). This case, however, is an unlawful detainer action governed by California law, and it raises no apparent issues of federal law. Therefore, the Court lacks subject-matter jurisdiction over this case and must remand it to state court.

In their notice of removal, the Cabessas allege that their defenses — not the plaintiff's claims — raise federal questions. (Doc. 1, Notice of Removal, 3:10-12). But their defenses, like the underlying claims, sound in state law. Moreover, removal would be improper even if their defenses implicated federal law, for a “case may not be removed to federal court on the basis of a federal defense.” *Franchise Tax Bd. v. Construction Laborers Vacation Trust*, 463 U.S. 1, 14 (1983).

Tova and Michael Cabessa failed to carry their burden of establishing subject-matter jurisdiction. Therefore, the Court *sua sponte* REMANDS this case to the California Superior Court for the County of Los Angeles.

Initials of Preparer

PMC