

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:15-cv-00041-SVW-PJW Date January 27, 2015

Title CFM Properties Management, LLC v. Ella Avery Smothers

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 [11]

Generally, 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.

Defendant Ella Smothers premised removal on federal question jurisdiction. (Doc. 1, Notice of Removal). 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. *See, e.g., Matthew 01 Inv., LLC v. Bloom*, No. CV 15-15-150-SVW-PLA, 2015 U.S. Dist. LEXIS 5641, at *1-2 (C.D. Cal. Jan. 13, 2015) (remanding a similar unlawful detainer case);

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Burbank Blvd. Apts. Owner LLC v. Cabessa, No. ^{JS-6}CV 14-9902 SVW (AJWx), 2015 US Dist. LEXIS 3602, at *1-2 (C.D. Cal. Jan. 9, 2015) (same).

Instead of arguing that the complaint raises a federal question, Ms. Smothers submits that she “intends to file a Complaint against Plaintiff in United States District Court against Plaintiff and other co-conspirators’ [sic] for RICO remedies authorized by the federal statutes at 18 U.S.C. [§] 1961 et seq.” (Doc. 1, Notice of Removal). First, her *intent* to file a federal lawsuit is immaterial: under the well-pleaded complaint rule, courts look at the well-pled complaint; they do not foray into the metaphysical world of a litigant’s intent. *See Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987) (“[F]ederal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.”). Second, a separate civil suit, even if filed, would have no bearing on whether this case is removable. *See id.* Third, jurisdiction still would be improper if Ms. Smothers alleged a RICO violation as a counterclaim in this case. *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009) (“Nor can federal jurisdiction rest upon an actual or anticipated counterclaim.”). And fourth, removal is improper to the extent Ms. Smothers contends that her RICO allegations form some kind of defense. *Franchise Tax Bd. v. Construction Laborers Vacation Trust*, 463 U.S. 1, 14 (1983) (“[A] case may not be removed to federal court on the basis of a federal defense.”).

Ms. Smothers failed to carry her burden of establishing subject-matter jurisdiction. Therefore, the Court REMANDS this case to the California Superior Court for the County of Los Angeles.¹

¹ In its *ex parte* application, CFM Properties makes passing reference to an attorneys fee award. (Doc. 11). A court, in its discretion, may award fees under 28 U.S.C. § 1447(c). But CFM Properties’ counsel failed to specify the fees incurred in moving to remand. Therefore, the Court denies CFM Properties request for fees.

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