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

10
11 MAHLON A. WOIRHAYE, III,
12 Plaintiff,

13 v.

14 DANITA MANZO, DOES 1 TO 100,
15 Defendants.

Case No. CV 16-06101-AB (RAOx)

**~~PROPOSED~~ ORDER
REMANDING ACTION AND
DENYING REQUEST TO
PROCEED WITHOUT
PREPAYING FEES**

16
17 **I.**

18 **FACTUAL BACKGROUND**

19 On July 15, 2016, Plaintiff Mahlon A. Woirhaye, III (“Plaintiff”) filed an
20 unlawful detainer action in Los Angeles County Superior Court against Danita
21 Manzo and Does 1 to 100 (collectively, “Defendants”). (Notice of Removal
22 (“Removal”) & Attached Complaint for Unlawful Detainer (“Compl.”), Dkt. No.
23 1.) Plaintiff alleges that he is the owner of the real property located in Whittier,
24 California (“the property”). (Compl., ¶¶ 3-4.) Plaintiff further alleges that
25 Defendants have failed to pay rent due and owing for the property. (*See id.*, ¶¶ 7,
26 10, 17.)

27 On August 15, 2016, Defendant Danita Manzo (hereinafter, “Defendant”)
28 filed a Notice of Removal, invoking the Court’s federal question jurisdiction.

1 (Removal at pp. 2-3.) In addition, Defendant filed an application to proceed
2 without prepaying fees. (Dkt. No. 3.) However, after reviewing the Notice of
3 Removal and the accompanying documents, the Court determines that it lacks
4 subject matter jurisdiction over this matter.

5 **II.**
6 **DISCUSSION**

7 Federal courts are courts of limited jurisdiction, having subject matter
8 jurisdiction only over matters authorized by the Constitution and statute. *Kokkonen*
9 *v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed. 2d 391
10 (1994). Federal courts are presumptively without jurisdiction over civil actions,
11 and the burden of establishing the contrary rests upon the party asserting
12 jurisdiction. *Id.* Further, a “strong presumption” against removal jurisdiction
13 exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th Cir. 1992).

14 After reviewing the Notice of Removal and the accompanying documents, it
15 is clear that this Court lacks federal question jurisdiction over this matter.
16 Defendant claims that this Court has federal question jurisdiction under 28 U.S.C.
17 § 1331, because defenses to the unlawful detainer “depend on the determination of
18 Defendant’s rights and Plaintiff’s duties under federal law.” (Removal at p. 2,
19 ¶ 10.) However, defenses and counterclaims do not give rise to federal question
20 jurisdiction. “A case may not be removed to federal court on the basis of a federal
21 defense, . . . even if the defense is anticipated in the plaintiff’s complaint, and even
22 if both parties admit that the defense is the only question truly at issue in the case.”
23 *Franchise Tax Bd. v. Constr. Laborers Vacation Trust for S. Cal.*, 463 U.S. 1, 14
24 (1983); *see also Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392, 107 S. Ct. 2425,
25 96 L. Ed. 2d 318 (1987) (“Only state-court actions that originally could have been
26 filed in federal court may be removed to federal court by the defendant.”)

27 Whether a claim “arises under” federal law must be determined by reference
28 to the “well-pleaded complaint.” *Franchise Tax Bd.*, 463 U.S. at 9-10. From the

1 face of the Complaint, the only claim raised is an unlawful detainer, which is a
2 California state law action. (Compl. at ¶ 5-7.) No federal question is presented.
3 See, e.g., *Nguyen v. Hutchis*, 2013 WL 4500574, *2 (C.D. Cal. Aug. 21, 2013);
4 *Cooper v. Washington Mut. Bank*, 2003 WL 1563999, *2 (N.D. Cal. Mar. 19, 2003)
5 (“An unlawful detainer action does not raise a question arising under federal law
6 and so, once removed, must be remanded for lack of jurisdiction.”).

7 **III.**

8 **CONCLUSION**

9 Accordingly, IT IS ORDERED that this case is REMANDED to the Superior
10 Court of California, County of Los Angeles forthwith.

11 IT IS FURTHER ORDERED that Defendant’s Application to Proceed
12 Without Prepaying Fees is DENIED as moot.

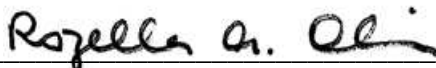
13 IT IS SO ORDERED.

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15 DATED: August 23, 2016



16
17 ANDRÉ BIROTTE JR.
UNITED STATES DISTRICT JUDGE

18 Presented by:

19 

20 ROZELLA A. OLIVER
21 UNITED STATES MAGISTRATE JUDGE