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JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TERRA PROPERTY
MANAGEMENT,

Plaintiff,

v.

NAJER TEMPLE,

Defendant.

Case No. CV 16-07814-MWF (RAOx)

ORDER REMANDING ACTION
AND DENYING REQUEST TO
PROCEED WITHOUT PREPAYING
FEES OR COSTS

I.

FACTUAL BACKGROUND

On August 3, 2016, Plaintiff Terra Property Management (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Defendant Najer Temple (“Defendant”). (Notice of Removal (“Removal”) & Attached Complaint for Unlawful Detainer (“Compl.”) and Answer, Dkt. No. 1.) Plaintiff alleges that it is an agent authorized by the owner of the real property in question to enter into contracts and file lawsuits in the owner’s name. (Compl., ¶ 4.) Plaintiff further alleges that Defendant agreed to rent real property located in Pacoima, California (“the Property”) as a month-to-month tenancy, but that Defendant has failed to pay rent. (*Id.*, ¶¶ 3, 6-7, 10, 17.)

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1 On October 20, 2016, Defendant filed a Notice of Removal, asserting that
2 this Court has jurisdiction on the basis of a federal question and citing 28 U.S.C.
3 §§ 1331 and 1441. (Removal at 1-2.) In addition, Defendant filed an application
4 for *in forma pauperis* status. (Dkt. No. 3.)

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6 **II.**
DISCUSSION

7 Federal courts are courts of limited jurisdiction, having subject matter
8 jurisdiction only over matters authorized by the United States Constitution and
9 federal statutes. *See, e.g., Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377,
10 114 S. Ct. 1673, 128 L. Ed. 2d 391 (1994). It is this Court’s duty to always
11 examine its own subject matter jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S.
12 500, 514, 126 S. Ct. 1235, 163 L. Ed. 2d 1097 (2006), and the Court may remand a
13 case summarily if there is an obvious jurisdictional issue, *cf. Scholastic Entm’t, Inc.*
14 *v. Fox Entm’t Grp., Inc.*, 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is
15 entitled to notice and an opportunity to respond when a court contemplates
16 dismissing a claim on the merits, it is not so when the dismissal is for lack of
17 subject matter jurisdiction.” (citations omitted)). A defendant attempting to
18 remove an action from state to federal court bears the burden of proving that
19 jurisdiction exists. *See Scott v. Breeland*, 792 F.2d 925, 927 (9th Cir. 1986).
20 Further, there is a “strong presumption” against removal jurisdiction. *See Gaus v.*
21 *Miles, Inc.*, 980 F.2d 564, 567 (9th Cir. 1992).

22 As noted above, Defendant asserts that this Court has subject matter
23 jurisdiction due to the existence of a federal question and cites 28 U.S.C. §§ 1331,
24 1441. (Removal at 2.) Defendant contends that the state court did not sustain
25 Defendant’s Answer despite the alleged failure of the complaint to comply with
26 requirements of the California Code of Civil Procedure. (*Id.*) Defendant further
27 argues that “[f]ederal question [jurisdiction] exists because Defendant’s Answer, a

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1 pleading[,] depend[s] on the determination of Defendant’s rights and Plaintiff’s
2 duties under federal law.” (*Id.*)

3 Section 1441 provides in relevant part that a defendant may remove to
4 federal court a civil action in state court of which the federal court has original
5 jurisdiction. *See* 28 U.S.C. § 1441(a). Section 1331 provides that federal “district
6 courts shall have original jurisdiction of all civil actions arising under the
7 Constitution, laws, or treaties of the United States.” *See id.* § 1331.

8 Here, the Court’s review of the Notice of Removal and the attached
9 complaint and answer makes clear that this Court does not have federal question
10 jurisdiction over the instant matter. Plaintiff could not have brought this action in
11 federal court as Plaintiff does not allege facts supplying federal question (or
12 diversity) jurisdiction, and therefore removal was improper. *See* 28 U.S.C.
13 § 1441(a); *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392, 107 S. Ct. 2425, 96 L.
14 Ed. 2d 318 (1987) (“Only state-court actions that originally could have been filed in
15 federal court may be removed to federal court by the defendant.”).

16 The Court notes that the underlying action is one for unlawful detainer,
17 which arises under and is governed by the laws of the State of California. Thus,
18 there is no federal question apparent on the face of Plaintiff’s Complaint. *See, e.g.,*
19 *Wescom Credit Union v. Dudley*, No. CV 10-8203 GAF (SSx), 2010 WL 4916578,
20 at *2 (C.D. Cal. Nov. 22, 2010) (“An unlawful detainer action does not arise under
21 federal law.”); *IndyMac Fed. Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337 PA
22 (DTBx), 2010 WL 234828, at *2 (C.D. Cal. Jan. 13, 2010) (remanding an action to
23 state court for lack of subject matter jurisdiction where plaintiff’s complaint
24 contained only an unlawful detainer claim).

25 Defendant suggests that a federal question is raised by his Answer, but he
26 refers only to provisions of the California Code of Civil Procedure. (Removal at 2.)
27 Regardless, it is well settled that a “case may not be removed to federal court on the
28 basis of a federal defense . . . even if the defense is anticipated in the plaintiff’s

1 complaint, and even if both parties concede that the federal defense is the only
2 question truly at issue.” *Caterpillar*, 482 U.S. at 393. Thus, even if Defendant’s
3 defense to the unlawful detainer action is based on alleged violations of federal law,
4 that does not provide a basis for federal question jurisdiction. *See id.* Because
5 Plaintiff’s complaint does not present a federal question, the court lacks jurisdiction
6 under 28 U.S.C. § 1331.

7 Although not asserted by Defendant, the Court notes that it also does not
8 have diversity jurisdiction over this action, as the amount in controversy does not
9 exceed the threshold of \$75,000. *See* 28 U.S.C. § 1332(a). The amount in
10 controversy is determined from the complaint itself unless it appears to a legal
11 certainty that the claim is worth a different amount than that pled in the complaint.
12 *Horton v. Liberty Mut. Ins. Co.*, 367 U.S. 348, 354, 81 S. Ct. 1570, 6 L. Ed. 2d 890
13 (1961); *Lowdermilk v. U.S. Bank Nat’l Ass’n*, 479 F.3d 994, 999 (9th Cir. 2007),
14 *overruled on other grounds by Rodriguez v. AT&T Mobility Servs. LLC*, 728 F.3d
15 975, 977, 980-81 (9th Cir. 2013). In filing the action, Plaintiff explicitly limited its
16 demand for damages to less than \$10,000.00. (*See* Compl. at 1.) Because the
17 amount of damages that Plaintiff seeks appears to be below the jurisdictional
18 minimum, the Court cannot exercise diversity jurisdiction in this case.

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III.
CONCLUSION

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

IT IS FURTHER ORDERED that Defendant's Application to Proceed Without Prepaying Fees or Costs is DENIED as moot.

IT IS SO ORDERED.

DATED: October 28, 2016



MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE

Presented by:

/s/

ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE