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

DEL MAR FINANCIAL
MANAGEMENT, INC.,

Plaintiff,

v.

RIZAL S. MARTIN and GENARA-
SUSAN A. MARTIN,

Defendants.

Case No. CV 17-00730-GW (RAOx)

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

I.

FACTUAL BACKGROUND

Plaintiff Del Mar Financial Management, Inc. (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Rizal S. Martin and Genara-Susan A. Martin (“Defendants”) on or about December 29, 2016. Notice of Removal (“Removal”) & Attached Complaint for Unlawful Detainer (“Compl.”) and Demurrer, Dkt. No. 1. Defendants are allegedly occupants and former owners of real property located in Carson, California (“the property”). Compl., ¶¶ 2, 4. Plaintiff is the current owner of the property. *Id.* at ¶¶ 1-2.

Defendants filed a Notice of Removal on January 30, 2017, invoking the Court’s federal question jurisdiction asserting that Defendants’ Demurrer to the

1 Complaint raises issues under federal law and citing to 42 U.S.C. §§ 1981-1985.¹
2 Removal at 1, 7-8. The same day, Defendant Rizal Martin filed an Application to
3 Proceed Without Prepaying Fees or Costs. Dkt. No. 3.

4 **II.**
5 **DISCUSSION**

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

21 As noted above, Defendants assert that this Court has subject matter
22 jurisdiction due to the existence of a federal question. (Removal at 1, 7-8.) Section
23 1441 provides, in relevant part, that a defendant may remove to federal court a civil
24 action in state court of which the federal court has original jurisdiction. *See* 28

25 ¹ The Notice of Removal also cites to 28 U.S.C. § 1332, the federal statute on
26 diversity of citizenship. However, later in their notice of removal, Defendants
27 expressly state that removal is not based on diversity of citizenship. *See* Removal
28 at 9. Accordingly, the Court does not address the issue of diversity under Section
1332.

1 U.S.C. § 1441(a). Section 1331 provides that federal “district courts shall have
2 original jurisdiction of all civil actions arising under the Constitution, laws, or
3 treaties of the United States.” *See id.* § 1331.

4 Here, the Court’s review of the Notice of Removal and the attached
5 Complaint and Demurrer makes clear that this Court does not have federal question
6 jurisdiction over the instant matter. Plaintiff could not have brought this action in
7 federal court, in that Plaintiff does not allege facts supplying federal question
8 jurisdiction, and therefore, removal was improper. *See* 28 U.S.C. § 1441(a);
9 *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392, 107 S.Ct. 2425, 2429, 96 L.Ed.2d
10 318 (1987) (“Only state-court actions that originally could have been filed in
11 federal court may be removed to federal court by the defendant.”) (footnote
12 omitted).

13 First, there is no federal question apparent on the face of Plaintiff’s
14 complaint, which alleges only a simple unlawful detainer cause of action. *See*
15 *Wescom Credit Union v. Dudley*, No. CV 10-8203 GAF (SSx), 2010 WL 4916578,
16 *2 (C.D.Cal. Nov. 22, 2010) (“An unlawful detainer action does not arise under
17 federal law.”) (citation omitted); *IndyMac Federal Bank, F.S.B. v. Ocampo*, No.
18 EDCV 09-2337 PA(DTBx), 2010 WL 234828, at *2 (C.D.Cal. Jan. 13, 2010)
19 (remanding an action to state court for lack of subject matter jurisdiction where
20 plaintiff’s complaint contained only an unlawful detainer claim).

21 Second, there is no merit to Defendants’ contention that federal question
22 jurisdiction exists because Defendants’ Demurrer raises issues of federal law under
23 42 U.S.C. §§ 1981-1985. Removal at 1, 7-8. It is well settled that a “case may not
24 be removed to federal court on the basis of a federal defense . . . even if the defense
25 is anticipated in the plaintiff’s complaint, and even if both parties concede that the
26 federal defense is the only question truly at issue.” *Caterpillar*, 482 U.S. at 393,
27 107 S. Ct. at 2430. Thus, to the extent Defendants’ defenses to the unlawful
28 detainer action are based on alleged violations of federal law, those defenses do not

1 provide a basis for federal question jurisdiction. *See id.* Because Plaintiff's
2 complaint does not present a federal question, either on its face or as artfully pled,
3 the court lacks jurisdiction under 28 U.S.C. § 1331.

4 **III.**

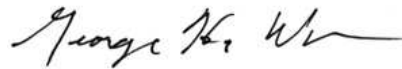
5 **CONCLUSION**

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

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

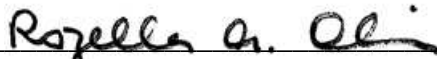
10 IT IS SO ORDERED.

11
12 DATED: February 2, 2017



13 _____
14 GEORGE H. WU
15 UNITED STATES DISTRICT JUDGE

16 Presented by:



17 _____
18 ROZELLA A. OLIVER
19 UNITED STATES MAGISTRATE JUDGE
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