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JS-6

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

TIM SAUER,

Plaintiff,

v.

GLORIA M. VILCHEZ and DOES 1-10,

Defendants.

**Case No. CV 17-02104-PA (RAOx)**

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

**I.**

**FACTUAL BACKGROUND**

Plaintiff Tim Sauer (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Defendants Gloria M. Vilchez and Does 1-10, on or about January 13, 2017. Notice of Removal (“Removal”) and Attached Complaint for Unlawful Detainer (“Compl.”) and Demurrer. Dkt. No. 1.

Defendants are allegedly unauthorized tenants of real property located in North Hollywood, California (“the property”). Compl., ¶¶ 3, 6.

Defendant Vilchez (“Defendant”) filed a Notice of Removal on March 16, 2017, invoking the Court’s federal question jurisdiction based on congressional enactment of Protecting Tenants at Foreclosure Act of 2009 (“PTFA”), 12 U.S.C.

1 § 5220. Removal at 2. The same day, Defendant filed a request to proceed *in*  
2 *forma pauperis*. Dkt. No. 2.

3 **II.**  
4 **DISCUSSION**

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

20 Defendant asserts that this Court has subject matter jurisdiction due to the  
21 existence of a federal question. (Removal at 2.) Section 1441 provides, in relevant  
22 part, that a defendant may remove to federal court a civil action in state court of  
23 which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a). Section  
24 1331 provides that federal “district courts shall have original jurisdiction of all civil  
25 actions arising under the Constitution, laws, or treaties of the United States.” *See*  
26 *id.* § 1331.

27 Here, the Court’s review of the Notice of Removal and attached Complaint  
28 and Demurrer makes clear that this Court does not have federal question

1 jurisdiction over the instant matter under 28 U.S.C. § 1331. First, there is no  
2 federal question apparent from the face of the Complaint, which appears to allege  
3 only a simple unlawful detainer cause of action. *See Wescom Credit Union v.*  
4 *Dudley*, No. CV 10-8203 GAF (SSx), 2010 WL 4916578, \*2 (C.D.Cal. Nov. 22,  
5 2010) (“An unlawful detainer action does not arise under federal law.”) (citation  
6 omitted); *IndyMac Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337  
7 PA(DTBx), 2010 WL 234828, at \*2 (C.D.Cal. Jan. 13, 2010) (remanding an action  
8 to state court for lack of subject matter jurisdiction where plaintiff’s complaint  
9 contained only an unlawful detainer claim).

10 Second, there is no merit to Defendant’s contention that federal question  
11 jurisdiction exists because the Complaint failed to comply with the requirements of  
12 the PTFA. Removal at 2. The PTFA does not create a private right of action;  
13 rather, it provides a defense to state law unlawful detainer actions. *See Logan v.*  
14 *U.S. Bank Nat. Ass’n*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming dismissal of  
15 the complaint because the PTFA “does not create a private right of action allowing  
16 [plaintiff] to enforce its requirements”). It is well settled that a “case may not be  
17 removed to federal court on the basis of a federal defense . . . even if the defense is  
18 anticipated in the plaintiff’s complaint, and even if both parties concede that the  
19 federal defense is the only question truly at issue.” *Caterpillar, Inc. v. Williams*,  
20 482 U.S. 386, 393, 107 S.Ct. 2425, 2430, 96 L.Ed.2d 318 (1987). Thus, to the  
21 extent Defendant’s defenses to the unlawful detainer action are based on alleged  
22 violations of federal law, those defenses do not provide a basis for federal question  
23 jurisdiction. *See id.* Because Plaintiff’s complaint does not present a federal  
24 question, either on its face or as artfully pled, the court lacks jurisdiction under 28  
25 U.S.C. § 1331.

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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: March 21, 2017

  
\_\_\_\_\_  
PERCY ANDERSON  
UNITED STATES DISTRICT JUDGE

Presented by:

  
\_\_\_\_\_  
ROZELLA A. OLIVER  
UNITED STATES MAGISTRATE JUDGE