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

MORGAN PICKS TWO, LLC,
 Plaintiffs,
 v.
 GRACE M. TURNER and
 ARCHANEL N. JENNINGS,
 Defendants.

Case No. CV 17-03368-SVW (RAOx)

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

I.

FACTUAL BACKGROUND

Plaintiff Morgan Picks Two, LLC (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Defendants Grace M. Turner, Archanel N. Jennings, and Does 1-10, on March 27, 2017. Notice of Removal (“Removal”) and Attached Complaint for Unlawful Detainer (“Compl.”) and Answer. Dkt. No. 1. Defendants are allegedly holdover occupants of real property located in Compton, California (“the property”). Compl., ¶¶ 1, 5-7. Plaintiff is the owner of the property. *Id.* at ¶¶ 1, 5.

Defendant Archanel N. Jennings (“Defendant”) filed a Notice of Removal on May 4, 2017, invoking the Court’s federal question jurisdiction. Removal at 2.

1 The same day, Defendant filed an application to proceed without prepaying fees or
2 costs. Dkt. No. 3.

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4 **II.**
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 Answer makes clear that this Court does not have federal question jurisdiction

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

10 Second, there is no merit to Defendant’s contention that federal question
11 jurisdiction exists because the Defendant’s Answer raises issues arising under
12 federal law. Removal at 2. It is well settled that a “case may not be removed to
13 federal court on the basis of a federal defense . . . even if the defense is anticipated
14 in the plaintiff’s complaint, and even if both parties concede that the federal defense
15 is the only question truly at issue.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 393,
16 107 S.Ct. 2425, 2430, 96 L.Ed.2d 318 (1987). Thus, to the extent Defendant’s
17 defenses to the unlawful detainer action are based on alleged violations of federal
18 law, those defenses do not provide a basis for federal question jurisdiction. *See id.*
19 Because Plaintiff’s complaint does not present a federal question, either on its face
20 or as artfully pled, the court lacks jurisdiction under 28 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: 5/9/17



STEPHEN V. WILSON
UNITED STATES DISTRICT JUDGE

Presented by:

R.A. Oliver
ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE