

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 17-05329 PA (AFMx) Date: 07/26/2017

Title Oseguera Investment Inc. v. Fernando Hernandez, Maria De Jesus Hernandez,
Does 1 to 10

Present: The Honorable: Percy Anderson, U.S District Judge

Kamilla Sali-Suleyman
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Plaintiff:
N/A

Attorneys Present for Defendants:
N/A

Proceedings: (In Chambers) ORDER REMANDING MATTER TO STATE COURT

On June 16, 2017, Oseguera Investment Inc. (“Plaintiff”) instituted unlawful detainer proceedings against Fernando Hernandez, Maria De Jesus Hernandez and Does 1 to 10 (“Defendants”) in state court. Defendants have allegedly continued in unlawful possession of the property located at 4847 Stancroft Ave., Baldwin Park, CA 91706 (the “Property”) that is owned by Plaintiff. Defendants are the former owners of the Property, who lost the Property through foreclosure on or about April 3, 2017. (Complaint, ¶ 6; Notice of Removal, ¶ 1.) Defendants have remained in possession of the Property, and on April 11, 2017, was served with a 60-Day Notice to Quit. (Complaint, ¶ 7.) Plaintiff filed its unlawful detainer complaint in state court after Defendants failed to comply with the notice to quit. Plaintiff estimates the fair rental value of the Property as \$30.00 per day. Defendant Hernandez removed the action to this Court on July 19, 2017. Defendant appears to assert both federal question and diversity jurisdiction, although the Civil Cover Sheet identifies only federal question jurisdiction. Defendant cites the Fair Debt Collection Practices Act as the apparent basis for alleged federal question jurisdiction. (Notice of Removal, ¶ 2.) Diversity jurisdiction is alleged in the Notice as “Plaintiff is incorporated in a state other than California and their principal place of business are [sic] located in a states other than California.” (Notice of Removal, ¶ 6.) Defendant further alleges he has a separate case pending against Plaintiff in state court. (Notice of Removal, ¶ 1.)

Federal courts are courts of limited jurisdiction, having subject matter jurisdiction only over matters authorized by the Constitution and Congress. *See, e.g., Kokkonen v. Guardian*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. **CV 17-05329 PA (AFMx)**

Date: _____

Title **Oseguera Investment Inc. v. Fernando Hernandez, Maria De Jesus Hernandez,
Does 1 to 10**

Life Ins. Co., 511 U.S. 375, 377 (1994). It is this Court’s duty to always examine its own subject matter jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006), and the Court may remand a case summarily if there is an obvious jurisdictional issue. *Cf. Scholastic Entm’t, Inc. v. Fox Entm’t Grp., Inc.*, 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled to notice and an opportunity to respond when a court contemplates dismissing a claim on the merits, it is not so when the dismissal is for lack of subject matter jurisdiction.”) (omitting internal citations). A defendant attempting to remove an action from state to federal court bears the burden of proving that jurisdiction exists. *See Scott v. Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further a “strong presumption” against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th Cir. 1992).

First, it is clear from the face of the Complaint that there is no diversity jurisdiction under 28 U.S.C. § 1332. The Notice of Removal does not indicate the citizenship of the Plaintiff (other than to say not California). But even if Defendant could establish diversity of citizenship, the amount in controversy is alleged to not exceed \$10,000 (Complaint at 1) – well below the statutory threshold of \$75,000. Defendant has not plausibly alleged that the amount in controversy requirement has been met. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 553-54 (2014). The Complaint specifically asserts a claim for ongoing damages at a rate of \$30.00 per day from June 13, 2017. (Complaint, ¶ 17.) Plaintiff has alleged all of this will total less than \$10,000, and Defendant has made no plausible allegations showing how those damages would exceed \$75,000. And Defendant cannot justify diversity jurisdiction based on the alleged value of a yet-to-be asserted counterclaim. *See Frantz v. Midland Corporate Tax Credit III Limited Partnership*, 2014 WL 4656475 at *2 (D. Id. 2014) (counterclaims cannot be used to satisfy the amount in controversy requirement to establish removal jurisdiction); *Franklin v. Car Financial Services, Inc.*, 2009 WL 3762687 at *2 (S.D. Cal. 2009) (same).

Second, subject matter jurisdiction exists over civil actions “arising under” federal law. 28 U.S.C. § 1331. A claim arises under federal law “when a federal question is presented on the face of plaintiff’s properly pleaded complaint.” *See Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). Plaintiff’s Complaint herein contains a single cause of action for unlawful

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 17-05329 PA (AFMx) Date: _____

Title Oseguera Investment Inc. v. Fernando Hernandez, Maria De Jesus Hernandez,
Does 1 to 10

detainer, a state law claim. There is no federal question jurisdiction even if there is a federal defense to the claim or a counterclaim arising under federal law. *See Caterpillar, Inc.*, 482 U.S. at 392-93. This is a simple state law unlawful detainer case, and there is no federal question (and nothing with regard to the Fair Debt Collection Practices Act) presented on the face of Plaintiff’s Complaint.

The Court thus REMANDS the action to state court forthwith and orders the Court Clerk promptly to serve this order on all parties who have appeared in this action.

cc: Pro Se Defendant

Initials of Preparer _____
: _____
