

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JS-6

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

HOLT AVENUE HOUSING
PARTNERS, LP,

Plaintiff,

v.

KATIE GOMEZ, et al.,

Defendants.

**Case No. CV 17-06180-BRO
(RAOx)**

**ORDER REMANDING ACTION
AND DENYING REQUEST TO
PROCEED IN FORMA PAUPERIS
AS MOOT**

I.

FACTUAL BACKGROUND

Plaintiff Holt Avenue Housing Partners, LP (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Defendants Katie Gomez, Myra Hernandez, Matthew Hernandez, Arthur Hernandez, and Does 1-10, on or about May 19, 2017. Notice of Removal (“Removal”) and Attached Complaint Coversheets and Notices of Unlawful Detainer (Eviction), Dkt. No. 1. Defendants are allegedly unauthorized tenants of real property located in Pomona, California (“the property”). *Id.*

Defendant Katie Gomez (“Defendant”) filed a Notice of Removal on August 21, 2017, invoking the Court’s federal question jurisdiction. Removal at 2-3.

1 Defendant Gomez also filed a Motion for an Evidentiary Hearing to Present
2 Evidence, Witnesses, and Oral Argument. Dkt. No. 4.

3 The same day, Defendant filed a request to proceed *in forma pauperis*. Dkt.
4 No. 3.

5 **II.**
6 **DISCUSSION**

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

22 Defendant asserts that this Court has subject matter jurisdiction due to the
23 existence of a federal question. (Removal at 2-3, 4-7.) Section 1441 provides, in
24 relevant part, that a defendant may remove to federal court a civil action in state court
25 of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a). Section
26 1331 provides that federal “district courts shall have original jurisdiction of all civil
27 actions arising under the Constitution, laws, or treaties of the United States.” *See id.*
28 § 1331.

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

12 Second, there is no merit to Defendant’s contention that federal question
13 jurisdiction exists because defenses to the action raise matters concerning federal
14 law. Removal at 4-6. It is well settled that a “case may not be removed to federal
15 court on the basis of a federal defense . . . even if the defense is anticipated in the
16 plaintiff’s complaint, and even if both parties concede that the federal defense is the
17 only question truly at issue.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 393, 107
18 S.Ct. 2425, 2430, 96 L.Ed.2d 318 (1987). Thus, to the extent Defendant’s defenses
19 to the unlawful detainer action are based on alleged violations of federal law, those
20 defenses do not provide a basis for federal question jurisdiction. *See id.* Because
21 Plaintiff’s complaint does not present a federal question, either on its face or as
22 artfully pled, the court lacks jurisdiction under 28 U.S.C. § 1331.

23 ///

24 ///

25 ///

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Request to Proceed *In Forma Pauperis* is DENIED as moot.

IT IS FURTHER ORDERED that Defendant's Motion for an Evidentiary Hearing is DENIED as moot.

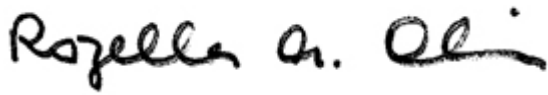
IT IS SO ORDERED.

DATED: August 23, 2017



BEVERLY REID O'CONNELL
UNITED STATES DISTRICT JUDGE

Presented by:



ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE