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JS-6

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

<p>EMPIRE MANAGEMENT, LLC, Plaintiff, v. ASHLEY L. PRENTISS, et al., Defendants.</p>
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Case No. CV 17-06600-FMO (RAOx)

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

**I.
FACTUAL BACKGROUND**

Plaintiff Empire Management, LLC (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Defendants Ashley L. Prentiss, Ashanti M. Watson, and Does 1-10, on or about July 19, 2017. Notice of Removal (“Removal”) and Attached Complaint (“Compl.”), Dkt. No. 1. Defendants are allegedly former tenants of real property located in Sherman Oaks, California (“the property”). Compl. ¶¶ 1, 3, 6. Plaintiff, who is the owner of the property, has filed the unlawful detainer action for nonpayment of rent. *Id.* ¶¶ 1, 4, 6.

Defendant Ashley L. Prentiss (“Defendant Prentiss”) filed a Notice of Removal on September 7, 2017, invoking the Court’s federal question jurisdiction

1 based on the Protecting Tenants at Foreclosure Act 2009, 12 U.S.C. § 5220
2 (“PTFA”). Removal at 2-7.

3 The same day, Defendant Prentiss filed a Request to Proceed *In Forma*
4 *Pauperis*. Dkt. No. 2.

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 Prentiss asserts that this Court has subject matter jurisdiction due
23 to the existence of a federal question. Removal at 2-6. Section 1441 provides, in
24 relevant part, that a defendant may remove to federal court a civil action in state
25 court of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).
26 Section 1331 provides that federal “district courts shall have original jurisdiction of
27 all civil actions arising under the Constitution, laws, or treaties of the United
28 States.” *See id.* § 1331.

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

12 Second, there is no merit to Defendant Prentiss’s contention that federal
13 question jurisdiction exists based on the asserted defense that Plaintiff did not allow
14 the 90-day notice period required under the PTFA to lapse before filing the
15 unlawful detainer action. Removal at 2-6. The PTFA does not create a private
16 right of action; rather, it provides a defense to state law unlawful detainer actions.
17 *See Logan v. U.S. Bank Nat. Ass’n*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming
18 dismissal of the complaint because the PTFA “does not create a private right of
19 action allowing [plaintiff] to enforce its requirements”). It is well settled that a
20 “case may not be removed to federal court on the basis of a federal defense . . . even
21 if the defense is anticipated in the plaintiff’s complaint, and even if both parties
22 concede that the federal defense is the only question truly at issue.” *Caterpillar*,
23 482 U.S. at 393, 107 S. Ct. at 2430. Thus, to the extent Defendant Prentiss’s
24 defenses to the unlawful detainer action are based on alleged violations of federal
25 law, those defenses do not provide a basis for federal question jurisdiction. *See id.*
26 Because Plaintiff’s complaint does not present a federal question, either on its face
27 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.

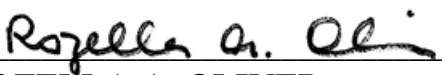
IT IS FURTHER ORDERED that Defendant's Request to Proceed *In Forma Pauperis* is DENIED as moot.

IT IS SO ORDERED.

DATED: September 12, 2017

_____/s/_____
FERNANDO M. OLGUIN
UNITED STATES DISTRICT JUDGE

Presented by:



ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE