

CIVIL MINUTES – GENERAL

Case No. CV 17-08144 VAP (AFMx) Date: November 15, 2017

Title Ocean Development, Inc. v. Archie McNeal, Ernestine Underwood,
La Gina Easley, Does 1-10, inclusive

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).

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). 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. From review of the materials submitted with the Notice of Removal, this is a simple state law unlawful detainer case, and there is no federal question presented on the face of Plaintiff’s Complaint. Defendant’s assertion of RESPA in his Notice of Removal is an apparent attempt to allege a counterclaim against Plaintiff based on the federal statute. That, however, does not create federal question jurisdiction over a state law dispute and defendant has not met her burden of proving jurisdiction exists in this Court. *See, e.g., HSBC Bank USA, N.A. v. Bryant*, 2009 WL 3787195, at n.2, *3 (S.D. Cal. Nov. 10, 2009) (remanding state court unlawful detainer action for lack of jurisdiction where RESPA alleged as counterclaim); *Prestige Homes, LLC v. Willis*, 2014 WL 295049, at *3 (E.D. Cal. Jan. 24, 2014) (same).

Moreover, the notice of removal has not alleged diversity jurisdiction, and it is clear from the face of the Complaint that no diversity jurisdiction exists under 28 U.S.C. § 1332. The amount demanded on the face of the Complaint is alleged not to exceed \$10,000 – well below the statutory threshold of \$75,000. Defendant has made no plausible allegations showing how those damages would exceed \$75,000.

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.

IT IS SO ORDERED

cc: Pro Se Defendant

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Initials of Preparer bh
