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<p>FILED CLERK, U.S. DISTRICT COURT</p> <div style="border: 1px solid black; padding: 5px; margin: 5px auto; width: 80%;"> <p style="text-align: center;">DEC 13 2017</p> </div> <p>CENTRAL DISTRICT OF CALIFORNIA BY: _____ vdr _____ DEPUTY</p>

JS-6

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

<p>SUNNYWAY INVESTMENT, INC., Plaintiff, v. VICTOR BELL, et al., Defendants.</p>	<p>Case No. CV 17-08867-FMO(RAOx)</p> <p>ORDER REMANDING ACTION AND DENYING REQUEST TO PROCEED IN FORMA PAUPERIS</p>
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I.

FACTUAL BACKGROUND

Plaintiff Sunnyway Investment, Inc. (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Defendants Victor Bell and Ronette Bell (“Defendants”), on or about November 13, 2017. Notice of Removal (“Removal”) and Attached Complaint (“Compl.”), Dkt. No. 1. Defendants are allegedly tenants of real property located in West Covina, California (“the property”). Compl. ¶¶ 2-3, 6. Plaintiff is the owner of the property. *Id.* at ¶¶ 1-2. Plaintiff filed the unlawful detainer action demanding that Defendants quit and deliver up possession of the property. *Id.* at ¶¶ 8-9. Plaintiff also seeks monetary damages. *Id.* at ¶¶ 11- 13.

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2 Defendant Victor Bell (“Defendant”) filed a Notice of Removal on December
3 8, 2017, invoking the Court’s federal question jurisdiction. Removal at 2.
4 Defendant also filed a Request to Proceed In Forma Pauperis. Dkt. No. 2.

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6 **II.**
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 L. Ed.
10 2d 391 (1994). It is this Court’s duty always to examine its own subject matter
11 jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L.
12 Ed. 2d 1097 (2006), and the Court may remand a case summarily if there is an
13 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 pursuant to
23 28 U.S.C. §§ 1331 and 1441. Removal at 2. Section 1441 provides, in relevant
24 part, that a defendant may remove to federal court a civil action in state court of
25 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*
28 *id.* § 1331.

1 Here, the Court’s review of the Notice of Removal and attached Complaint
2 and Answer makes clear that this Court does not have federal question jurisdiction
3 over the instant matter under 28 U.S.C. § 1331. First, there is no federal question
4 apparent from the face of the Complaint, which appears to allege only a simple
5 unlawful detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV
6 10-8203 GAF (SSx), 2010 WL 4916578, at *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 unlawful detainer involve federal housing
14 laws. Removal at 2-4. 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. 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.

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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.

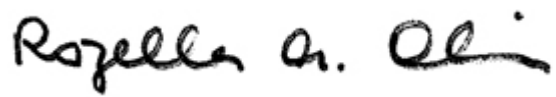
IT IS FURTHER ORDERED that Defendant's Request to Proceed In Forma Pauperis DENIED as moot.

IT IS SO ORDERED.

DATED: December 13, 2017

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

Presented by:



ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE