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

M&M PROPERTY MANAGEMENT,
Plaintiff,
v.
JUAN DE ALVA and NORMA PEREA,
Defendants.

Case No. CV 18-01905-SVW (RAOx)

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

JS-6

**I.
FACTUAL BACKGROUND**

Plaintiff M&M Property Management (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Defendants Juan De Alva and Norma Perea (“Defendants”), on or about January 19, 2018. Notice of Removal (“Removal”) and Attached Complaint (“Compl.”), Dkt. No. 1. Defendants are allegedly tenants of real property located in Bellflower, California (“the property”). Compl. ¶¶ 3, 6. Plaintiff is the owner’s authorized agent for the property. *Id.* at ¶¶ 2, 4. Plaintiff filed the unlawful detainer action demanding that Defendants quit and deliver up possession of the property. *Id.* at ¶¶ 7, 10. Plaintiff also seeks monetary damages. *Id.* at ¶¶ 10, 17.

1 Defendant Perea filed a Notice of Removal on March 7, 2018, invoking the
2 Court’s federal question jurisdiction. Removal at 2. Defendant Perea also filed a
3 Request to Proceed *In Forma Pauperis*. Dkt. No. 3.

4 **II.**

5 **DISCUSSION**

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

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

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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, at *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 Perea’s contention that federal
13 question jurisdiction exists based on alleged violations of the Fair Housing Act.
14 Removal at 2-3. It is well settled that a “case may not be removed to federal court
15 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 Perea’s
19 defenses to the unlawful detainer action are based on alleged violations of federal
20 law, those defenses do not provide a basis for federal question jurisdiction. *See id.*
21 Because Plaintiff’s complaint does not present a federal question, either on its face
22 or as artfully pled, the court lacks jurisdiction under 28 U.S.C. § 1331.

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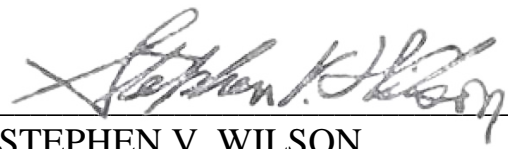
III.
CONCLUSION

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.

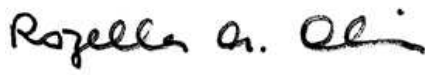
IT IS SO ORDERED.

DATED: March 14, 2018



STEPHEN V. WILSON
UNITED STATES DISTRICT JUDGE

Presented by:



ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE