

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

JS 6

Case No. EDCV 13-167 DSF (DTBx)

Date 1/31/13

Title THR California, L.P., etc. v. Isaura Cera, et al.

Present: The
Honorable

DALE S. FISCHER, United States District Judge

Debra Plato

Not Present

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (In Chambers) Order REMANDING Case to Superior Court of California, County of Riverside

This matter was removed from state court on January 28, 2013 based on federal question and civil rights jurisdiction.

The complaint is a state law unlawful detainer complaint and does not state a federal cause of action. Federal question jurisdiction is based on the plaintiff's complaint and not on any federal counterclaims or defenses that a defendant might assert. See Holmes Group, Inc. v. Vornado Air Circulation Sys., Inc., 535 U.S. 826, 830-32 (2002).

Civil rights removal under § 1443(1) requires “[f]irst, [that] the [defendants] must assert, as a defense to the prosecution, rights that are given to them by explicit statutory enactment protecting equal racial civil rights [and] [s]econd, that [the defendants] must assert that the state courts will not enforce that right, and that allegation must be supported by reference to a state statute or a constitutional provision that purports to command the state courts to ignore the federal rights.” Patel v. Del Taco, Inc., 446 F.3d 996, 999 (9th Cir. 2006) (quoting California v. Sandoval, 434 F.2d 635, 636 (9th Cir.1970)). The removing defendant appears to believe that Defendants will not receive an adequate hearing in unlawful detainer court. However, none of his mostly unspecific concerns implicates an equal protection right – racial or otherwise. And, even assuming that unlawful detainer courts have sometimes not provided full due process rights, the removing defendant fails to “refer[] to a state statute or a constitutional provision that purports to command the state courts to ignore the federal rights.”

The case is REMANDED to the Superior Court of California, County of Riverside.

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IT IS SO ORDERED.