

PRIORITY SEND

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIACIVIL MINUTES -- GENERAL

Case No. EDCV 13-00527-VAP (DTBx)

Date: April 17, 2013

Title: THR CALIFORNIA LLC -v- SYLVIA GONZALES

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PRESENT: HONORABLE VIRGINIA A. PHILLIPS, U.S. DISTRICT JUDGE

Marva Dillard
Courtroom DeputyNone Present
Court ReporterATTORNEYS PRESENT FOR
PLAINTIFFS:ATTORNEYS PRESENT FOR
DEFENDANTS:

None

None

PROCEEDINGS: MINUTE ORDER REMANDING ACTION TO THE
CALIFORNIA SUPERIOR COURT FOR THE COUNTY OF
SAN BERNARDINO (IN CHAMBERS)

On March 22, 2013, Defendant Sylvia Gonzales ("Defendant") removed this action from the California Superior Court for the County of San Bernardino. Defendant alleges the Court has subject-matter jurisdiction to hear this matter pursuant to federal question jurisdiction. (See Not. of Removal (Doc. No. 1) at 2.) For the following reasons, the Court REMANDS the action to the California Superior Court for the County of San Bernardino.

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Removal jurisdiction is governed by statute. See 28 U.S.C. §1441. The Ninth Circuit applies a strong presumption against removal jurisdiction, ensuring "the defendant always has the burden of establishing that removal is proper." Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992) (citing Nishimoto v. Federman-Bachrach & Assocs., 903 F.2d 709, 712 n.3 (9th Cir. 1990)); see also In re Ford Motor Co./Citibank, 264 F.3d 952, 957 (9th Cir. 2001) ("The party asserting federal jurisdiction bears the burden of proving the case is properly in federal court."). "If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded." 28 U.S.C. § 1447(c); FW/PBS, Inc. v. Dallas, 493 U.S. 215, 231 (1990) ("federal courts are under an independent obligation to examine their own jurisdiction"); see also Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.")

Defendant alleges the basis for removal is federal question jurisdiction. From the face of the Complaint, however, Plaintiff's only claim is for unlawful detainer, a California state law action. See Franchise Tax Bd. v. Constr. Laborers Vacation Trust, 463 U.S. 1, 10 (1983) (holding that a defendant may not remove a case to federal court unless the basis for federal jurisdiction is apparent on the face of the complaint). Without a federal question, there is no federal question jurisdiction. Accordingly, the Court REMANDS this matter to the California Superior Court for the County of San Bernardino.

IT IS SO ORDERED.