

PRIORITY SEND

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

Case No. EDCV 13-01424-VAP (DTBx)

Date: August 20, 2013

Title: THM ENTERPRISE, LLC -v- ANGELA BOYD DBA UNIQUELY
ELEGANT ATTIRE ANGELA BOYD, AN INDIVIDUAL

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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 CALIFORNIA
SUPERIOR COURT, COUNTY OF SAN BERNARDINO (IN
CHAMBERS)

On June 21, 2013, Plaintiff THM Enterprise, LLC ("Plaintiff") filed a complaint for unlawful detainer (Ex. 1 to Not. of Removal ("Complaint")) against Defendant Angela Boyd dba Uniquely Elegant Attire Angela Boyd ("Defendant"). On August 13, 2013, Defendant removed the action on the basis of federal question jurisdiction. (See Not. of Removal at 1.)

Removal jurisdiction is governed by statute. See 28 U.S.C. §1441, et seq. 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

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Motor Co./Citibank (South Dakota), N.A., 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.").

Defendant claims the basis for removal is federal question jurisdiction, 28 U.S.C. § 1331, because the claims arise under federal law. 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 Trust, 463 U.S. 1, 10 (1983) (defendant may not remove case to federal court unless the basis for federal jurisdiction is apparent on the face of the complaint). Accordingly, Defendant has not shown the Court's jurisdiction based on federal question, 28 U.S.C. § 1331.

Defendant has not met his burden of establishing that the case is properly in federal court. Gaus, 980 F.2d at 566. Accordingly, the Court REMANDS the action to the Superior Court of California, San Bernardino County.

IT IS SO ORDERED.