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

2014-3 IH BORROWER L.P.,  
Plaintiff,

v.

DAVID PATRICK GOODE, et al.,  
Defendants.

**Case No. CV 17-00578-TJH (RAOx)**

**ORDER REMANDING ACTION,  
DENYING APPLICATION TO  
PROCEED IN FORMA PAUPERIS  
AS MOOT, AND DENYING EX  
PARTE APPLICATION TO  
REMAND AS MOOT**

**I.**

**FACTUAL BACKGROUND**

Plaintiff 2014-3 IH Borrower L.P. (“Plaintiff”) filed an unlawful detainer action in Riverside County Superior Court against Defendants David Patrick Goode, Valorie Ruth Goode, and Does 1-10, on or about January 25, 2017. Notice of Removal (“Removal”) and Attached Complaint for Unlawful Detainer (“Compl.”) and Demurrer. Dkt. No. 1. Defendants are allegedly unauthorized tenants of real property located in Riverside, California (“the property”). Compl., ¶¶ 3, 6. Plaintiff is the owner of the property. *Id.* at ¶¶ 1, 4.

Defendant David Patrick Goode (“Defendant”) filed a Notice of Removal on March 27, 2017, invoking the Court’s federal question jurisdiction based on Protecting Tenants at Foreclosure Act of 2009 (“PTFA”), 12 U.S.C. § 5220.

1 Removal at 2. The same day, Defendant filed an application to proceed *in forma*  
2 *pauperis*. Dkt. No. 5.

3 On March 29, 2017, Plaintiff filed an *Ex Parte* Application to Remand Case  
4 to Riverside County Superior Court and a Motion to Remand. (Dkt. Nos. 6-7.)

## 5 II.

### 6 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  
10 L.Ed.2d 391 (1994). It is this Court's duty always to examine its own subject  
11 matter jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235,  
12 163 L.Ed.2d 1097 (2006), and the Court may remand a case summarily if there is  
13 an 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 due to the  
23 existence of a federal question. (Removal at 2-3.) Section 1441 provides, in  
24 relevant part, that a defendant may remove to federal court a civil action in state  
25 court of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).  
26 Section 1331 provides that federal "district courts shall have original jurisdiction of  
27 all civil actions arising under the Constitution, laws, or treaties of the United  
28 States." *See id.* § 1331.

1 Here, the Court's review of the Notice of Removal and attached Complaint  
2 and Demurrer makes clear that this Court does not have federal question  
3 jurisdiction over the instant matter under 28 U.S.C. § 1331. First, there is no  
4 federal question apparent from the face of the Complaint, which appears to allege  
5 only a simple unlawful detainer cause of action. *See Wescom Credit Union v.*  
6 *Dudley*, No. CV 10-8203 GAF (SSx), 2010 WL 4916578, \*2 (C.D.Cal. Nov. 22,  
7 2010) ("An unlawful detainer action does not arise under federal law.") (citation  
8 omitted); *IndyMac Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337  
9 PA(DTBx), 2010 WL 234828, at \*2 (C.D.Cal. Jan. 13, 2010) (remanding an action  
10 to state court for lack of subject matter jurisdiction where plaintiff's complaint  
11 contained only an unlawful detainer claim).

12 Second, there is no merit to Defendant's contention that federal question  
13 jurisdiction exists because the Complaint failed to comply with the requirements of  
14 the PTFA. Removal at 2. The PTFA does not create a private right of action;  
15 rather, it provides a defense to state law unlawful detainer actions. *See Logan v.*  
16 *U.S. Bank Nat. Ass'n*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming dismissal of  
17 the complaint because the PTFA "does not create a private right of action allowing  
18 [plaintiff] to enforce its requirements"). It is well settled that a "case may not be  
19 removed to federal court on the basis of a federal defense . . . even if the defense is  
20 anticipated in the plaintiff's complaint, and even if both parties concede that the  
21 federal defense is the only question truly at issue." *Caterpillar, Inc. v. Williams*,  
22 482 U.S. 386, 393, 107 S.Ct. 2425, 2430, 96 L.Ed.2d 318 (1987). Thus, to the  
23 extent Defendant's defenses to the unlawful detainer action are based on alleged  
24 violations of federal law, those defenses do not provide a basis for federal question  
25 jurisdiction. *See id.* Because Plaintiff's complaint does not present a federal  
26 question, either on its face or as artfully pled, the court lacks jurisdiction under 28  
27 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 Riverside, forthwith.

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

IT IS FURTHER ORDERED that Plaintiff's *Ex Parte* Application to Remand and Motion to Remand are DENIED as moot.

IT IS SO ORDERED.

DATED: April 6, 2017



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TERRY J. HATTER, JR.,  
UNITED STATES DISTRICT JUDGE

Presented by:



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ROZELLA A. OLIVER  
UNITED STATES MAGISTRATE JUDGE