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

MORENO VALLEY HEMLOCK  
LIMITED PARTNERSHIP,

Plaintiff,

v.

SANDRA SANCHEZ, et al.,

Defendants.

**Case No. EDCV 17-01719-R (RAOx)**

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

**I.**

**FACTUAL BACKGROUND**

Plaintiff Moreno Valley Hemlock Limited Partnership (“Plaintiff”) filed an unlawful detainer action in Riverside County Superior Court against Defendants Sandra Sanchez and Does 1-10, on or about July 13, 2017. Notice of Removal (“Removal”) and Attached Complaint (“Compl.”) and Demurrer, Dkt. No. 1. Defendants are allegedly unauthorized tenants of real property located in Moreno Valley, California (“the property”). Compl. ¶¶ 3, 6. Plaintiff is the owner of the property. *Id.* ¶ 1, 4.

Defendant Sandra Sanchez (“Defendant”) filed a Notice of Removal on August 24, 2017, invoking the Court’s federal question jurisdiction. Removal at 2.

1 The same day, Defendant filed a request to proceed *in forma pauperis*. Dkt.  
2 No. 3.

3 **II.**  
4 **DISCUSSION**

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

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

27 Here, the Court’s review of the Notice of Removal and attached Complaint  
28 makes clear that this Court does not have federal question jurisdiction over the

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

10 Second, there is no merit to Defendant’s argument that the demurrer involves  
11 a “determination of Defendant’s rights and Plaintiff’s duties under federal law.”  
12 Removal at 2. It is well settled that a “case may not be removed to federal court on  
13 the basis of a federal defense . . . even if the defense is anticipated in the plaintiff’s  
14 complaint, and even if both parties concede that the federal defense is the only  
15 question truly at issue.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 393, 107 S.Ct.  
16 2425, 2430, 96 L.Ed.2d 318 (1987). Thus, to the extent Defendant’s defenses to the  
17 unlawful detainer action are based on alleged violations of federal law, those  
18 defenses do not provide a basis for federal question jurisdiction. *See id.* Because  
19 Plaintiff’s Complaint does not present a federal question, either on its face or as  
20 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 Riverside, forthwith.

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

IT IS SO ORDERED.

DATED: September 20, 2017

MANJUEL L. REAL  
UNITED STATES DISTRICT JUDGE

Presented by:

ROZELLA A. OLIVER  
UNITED STATES MAGISTRATE JUDGE