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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY _____ *aw* _____

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

11	THR CALIFORNIA, L.P.,)	Case No. SACV 13-1143-UA (DUTYx)
12	Plaintiff,)	
13	vs.)	ORDER SUMMARILY REMANDING
14	NAPOLEAN RHODES et al.,)	IMPROPERLY REMOVED ACTION
15	Defendants.)	
16)	

The Court hereby summarily remands this unlawful-detainer action to state court because Defendant Napoleon Rhodes removed it improperly.

On July 30, 2013, Defendant, having been sued in a routine unlawful-detainer action in California state court, lodged a Notice of Removal of that action to this Court and also presented an application to proceed in forma pauperis. The Court has denied the latter under separate cover because the action was not properly removed. The Court also issues this separate order remanding the action to the state court to prevent it from remaining in jurisdictional limbo. Remand is necessary because

1 Plaintiff could not have brought this action in federal court in
2 the first place, and Defendant does not competently allege facts
3 supplying either diversity or federal-question jurisdiction.
4 Therefore, Defendant's removal is improper. 28 U.S.C. § 1441(a);
5 see Exxon Mobil Corp. v. Allapattah Servs., Inc., 545 U.S. 546,
6 563, 125 S. Ct. 2611, 2623, 162 L. Ed. 2d 502 (2005). Even if
7 complete diversity of citizenship exists, the amount in
8 controversy does not exceed the diversity-jurisdiction threshold
9 of \$75,000. See 28 U.S.C. §§ 1332, 1441(b). On the contrary,
10 the unlawful-detainer Complaint clearly recites that the amount
11 in controversy "does not exceed \$10,000.00" (Compl. at 1), and
12 Plaintiff requests actual damages of \$2400 plus interest (id. at
13 3).

14 Plaintiff's unlawful-detainer action also fails to raise any
15 federal legal question. See (Notice of Removal at 2); 28 U.S.C.
16 §§ 1331, 1333, 1441(b). To the extent Defendant asserts that
17 federal-question jurisdiction exists because he plans to raise
18 some sort of defense or counterclaim under the Fair Debt
19 Collection Practices Act, 15 U.S.C. § 1692 et seq. (see Notice of
20 Removal at 2), it is well established that a suit "arises under"
21 federal law within the meaning of § 1331 "only when the
22 plaintiff's statement of his own cause of action shows that it is
23 based upon [federal law]." Vaden v. Discover Bank, 556 U.S. 49,
24 59, 12 S. Ct. 1262, 1272, 173 L. Ed. 2d 206 (2009) (alteration in
25 original). Federal jurisdiction "cannot be predicated on an
26 actual or anticipated defense," nor can it rest upon "an actual
27 or anticipated counterclaim." Id. at 60. Because the Complaint
28 on its face alleges only an unlawful-detainer action under state

1 law, no basis for federal-question jurisdiction exists. See HSBC
2 Bank USA, N.A. v. Bryant, No. 09-CV-1659-IEG (POR), 2009 WL
3 3787195, at *3 (S.D. Cal. Nov. 10, 2009) (remanding unlawful-
4 detainer action because "no basis for 'federal question'
5 jurisdiction" existed despite defendant's assertion of federal
6 counterclaims).


7 Accordingly, IT IS ORDERED that (1) this matter be REMANDED
8 to the Orange County Superior Court, North Justice Center, 1275
9 North Berkeley Avenue, Fullerton, California 92838, for lack of
10 subject matter jurisdiction pursuant to 28 U.S.C. § 1447(c); (2)
11 the Clerk send a certified copy of this Order to the state court;
12 and (3) the Clerk serve copies of it on the parties.

13
14 DATED: 8/5/13



GEORGE H. KING
CHIEF U.S. DISTRICT JUDGE

15 Presented by:

16 
17 _____
18 Jean Rosenbluth
U.S. Magistrate Judge