

JS-6

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

DIVINE HOTELS, LLC,
Plaintiff,
v.
ROBERT JONES, SR., and DOES 1
TO 10,
Defendants.

Case No. SA CV 17-0276 DOC (JCGx)
**ORDER SUMMARILY REMANDING
IMPROPERLY REMOVED ACTION**

The Court will summarily remand this unlawful detainer action to state court because Defendant removed it improperly.

On February 15, 2017, Robert Jones, Sr. (“Defendant”), having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice of Removal of that action in this Court (“Notice”) and also presented a request to proceed *in forma pauperis*. [Dkt. Nos. 1, 3.] The Court has denied the latter application under separate cover because the action was improperly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

1 Simply stated, Plaintiff could not have brought this action in federal court in the
2 first place, in that Defendant does not competently allege facts supplying either
3 diversity or federal-question jurisdiction, and so removal is improper. 28 U.S.C.
4 § 1441(a); *see Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). Notably, even if
5 complete diversity of citizenship exists, Defendant cannot properly remove the action
6 because Defendant resides in the forum state. (*See* Notice at 1); *see also* 28 U.S.C.
7 § 1441(b)(2).

8 Nor does Plaintiff’s unlawful detainer proceeding raise any federal legal
9 question. *See* 28 U.S.C. §§ 1331, 1441. Pursuant to the “well-pleaded complaint
10 rule,” federal-question jurisdiction exists “only when a federal question is presented on
11 the face of the plaintiff’s properly pleaded complaint.” *Caterpillar*, 482 U.S. at 392.
12 Plaintiff’s complaint for unlawful detainer alleges a cause of action arising under the
13 laws of the State of California. [*See* Dkt. No. 1 at 9-12.] In the Notice, Defendant
14 claims that he withheld rent in response to Plaintiff’s alleged violations of the Fair
15 Housing Act (“FHA”), 42 U.S.C. § 3601 *et seq.* (Notice at 2-3.) However, the FHA
16 does not appear on the face of Plaintiff’s well-pleaded complaint, and thus may not
17 serve as a basis for federal-question jurisdiction. [*See* Dkt. No. 1 at 9-12]; *see also*
18 *Caterpillar*, 482 U.S. at 392; *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009) (holding
19 that federal-question jurisdiction “cannot be predicated on an actual or anticipated
20 defense” nor on “an actual or anticipated counterclaim”).

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1 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the
2 Superior Court of California, County of Orange, North Justice Center, 1275 North
3 Berkeley Avenue, Fullerton, CA 92832, for lack of subject matter jurisdiction pursuant
4 to 28 U.S.C. § 1447(c); (2) the Clerk send a certified copy of this Order to the state
5 court; and (3) the Clerk serve copies of this Order on the parties.
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8 DATED: March 2, 2017



9 HON. DAVID O. CARTER
10 UNITED STATES DISTRICT JUDGE
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