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4 UNITED STATES DISTRICT COURT  
5 EASTERN DISTRICT OF CALIFORNIA

6 MRO INVESTMENTS, INC.,

CASE NO. 1:12-cv-01725-LJO-SMS

7 Plaintiff,

8 v.

ORDER REMANDING UNLAWFUL  
DETAINER ACTION FOR LACK OF  
SUBJECT MATTER JURISDICTION

9 MICHAEL F. POORE, MICHELLE L.  
10 POORE, AND DOES 1 to 10, inclusive,

11 Defendants.

(Doc. 1)

12 \_\_\_\_\_ /  
13 Defendants Michael F. Poore and Michelle L. Poore, proceeding *pro se*, filed papers  
14 attempting to remove to this Court an unlawful detainer action brought against them in Fresno  
15 County Superior Court. Because this Court lacks subject matter jurisdiction over the unlawful  
16 detainer action, it will remand it, on the Court's own motion, to the Fresno County Superior  
17 Court.

18 Federal law empowers a defendant to remove an action to federal court if the district  
19 court has original jurisdiction. 28 U.S.C. § 1441(a). "Only state court actions that originally  
20 could have been filed in federal court may be removed to federal court by the defendant."  
21 *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). Subject matter jurisdiction is invoked  
22 under 28 U.S.C. § 1331 (federal question) or 28 U.S.C. 1332(a) (diversity). In their removal  
23 motion, Defendants allege both diversity and federal question jurisdiction. Neither type of  
24 subject matter jurisdiction exists in this case.

25 **Diversity Jurisdiction.** To establish diversity jurisdiction, the sum or value of the matter  
26 in controversy must exceed \$75,000, and the parties must be citizens of different states. 28  
27 U.S.C. § 1332(a). Because Plaintiff is a California corporation and Defendants are California  
28 residents, the parties' citizenship is not diverse, and the federal court lacks diversity jurisdiction.

1           **Federal question jurisdiction.** District courts have “original jurisdiction of all civil  
2 actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.  
3 This means that a complaint must establish “either (1) that federal law creates the cause of action  
4 or (2) that the plaintiff’s right to relief necessarily depends on resolution of a substantial question  
5 of federal law.” *Williston Basin Interstate Pipeline Co. v. An Exclusive Gas Storage & Easement*  
6 *in the Cloverly Subterranean, Geological Formation*, 524 F.3d 1090, 1100 (9<sup>th</sup> Cir. 2008).  
7 Defendants’ removal motion asserts that federal question jurisdiction exists but provides no  
8 factual support for their legal conclusion.

9           An unlawful detainer, or eviction, action is a matter of state law. *Round Valley Indian*  
10 *Housing Authority v. Hunter*, 907 F.Supp. 1343, 1348 (N.D.Cal. 1995). *See also Powers v.*  
11 *United States Postal Service*, 671 F.2d 1041, 1045 (7<sup>th</sup> Cir. 1982) (“Federal common law of  
12 landlord and tenant does not exist”). In the absence of related federal claims, a district court  
13 properly remanded an unlawful detainer action that the defendant had attempted to remove to  
14 federal court. *McGee v. Hildebrand*, 19 Fed.Appx. 582, 583 (9<sup>th</sup> Cir. 2001).

15           **Conclusion and order.** A district court may remand an action to state court for lack of  
16 subject matter jurisdiction. 28 U.S.C. § 1447(c). Lacking subject matter jurisdiction over this  
17 action, this Court must dismiss it and remand it to the Fresno County Superior Court.

18           Accordingly, this Court REMANDS this action to the Fresno County Superior Court.  
19 The Clerk of Court is directed to serve a copy of this order on the Fresno County Superior Court  
20 and to serve the parties in the customary manner.

21           IT IS SO ORDERED.

22 **Dated:** October 23, 2012

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE