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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

RUBICON EQUITY GROUP, INC.,

Plaintiff,

v.

GERALD A. LAWHORN AND
KARLYLE LAWHORN,

Defendants.

No. 1:14-cv-409 LJO-GSA

ORDER REMANDING ACTION

(Doc. 1)

INTRODUCTION

Pro se Defendants Gerald Lawhorn and Karlyle Lawhorn ("Defendants") filed a Notice of Removal of an unlawful detainer action brought against them in Stanislaus Superior Court. (Doc. 1). Defendants' papers fail to invoke this Court's subject matter jurisdiction. Accordingly, the case will be remanded to the Stanislaus County Superior Court.

DISCUSSION

Removal

28 U.S.C. § 1441(a) empowers a defendant to remove an action to federal court if the district court has original jurisdiction. *Catepillar, Inc. v. Williams*, 482 U.S. 286, 392 (1987). The removal statute provides:

1 Except otherwise expressly provided by Act of Congress, any civil
2 action brought in a State court of which the district courts of the
3 United States have original jurisdiction, may be removed by the
4 defendant or defendants, to the district court of the United States for
5 the district and division embracing the place where such action is
6 pending.

7 28 U.S.C. § 1441(a).

8 A removing party must file a notice of removal of a civil action within 30 days of receipt of a
9 copy of the initial pleading. 28 U.S.C. § 1446(b). Removal statutes are strictly construed with doubts
10 resolved in favor of state court jurisdiction and remand. *See Gaus v. Miles*, 980 F.2d 564, 566 (9th
11 Cir. 1992). The removing party bears the burden to prove propriety of removal. *Abrego v. Dow*
12 *Chem. Co.*, 443 F.3d 676, 683-685 (9th Cir. 2006); *Duncan v. Stuetzle*, 76 F.3d 1480, 1485 (9th Cir.
13 1996); *see also Calif. ex. rel. Lockyer v. Dynege, Inc.*, 375 F.3d 831, 838 (9th Cir. 2004) (“the burden
14 of establishing federal jurisdiction falls to the party invoking the statute”). A district court may
15 remand an action to state court for lack of subject matter jurisdiction or a defect in the removal
16 procedure. 28 U.S.C. § 1447(c).

17 Generally, subject matter jurisdiction can be established in three ways: 1) a federal
18 question is presented, 2) diversity of citizenship is established (the matter in controversy exceeds
19 \$75,000 and is between citizens of different states), or 3) the United States is a party. 28 U.S.C.
20 §§ 1331 and 1332; *See also, Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375 (1994); *Finley v.*
21 *United States*, 490 U.S. 545, 109 S.Ct. 2003, 2008 (1989). As discussed below, Plaintiff has
22 failed to establish that federal jurisdiction is proper. The United States is not a party to this
23 action. Similarly, Plaintiff cannot establish jurisdiction is proper because no federal question has
24 been presented and the amount in controversy does not exceed \$75,000.

25 **Federal Question Jurisdiction**

26 District courts have “original jurisdiction of all civil actions arising under the Constitution,
27 laws, or treaties of the United States.” 28 U.S.C. § 1331. Determination of federal question
28 jurisdiction “is governed by the well-pleaded complaint rule, which provides that federal jurisdiction

1 exists only when a federal question is presented on the face of plaintiff's properly pleaded complaint."
2 *Catepillar*, 482 U.S. at 392. To invoke federal question jurisdiction, a complaint must establish
3 "either that (1) federal law creates the cause of action or that (2) plaintiff's right to relief necessarily
4 depends on resolution of a substantial question of federal law." *Williston Basin Interstate Pipeline Co.*
5 *v. An Exclusive Gas Storage & Easement*, 524 F.3d 1090, 1100 (9th Cir. 2008).

6 Under the "well-pleaded complaint" rule, courts look to what "necessarily appears in the
7 plaintiff's statement of his own claim in the bill or declaration, unaided by anything in anticipation of
8 avoidance of defenses which it is thought the defendant may interpose." *California v. United States*,
9 215 F.3d 1005, 1014 (9th Cir. 2000). Thus, "a case may not be removed on the basis of a federal
10 defense . . . even if the defense is anticipated in the plaintiff's complaint and both parties concede that
11 the federal defense is the only question truly at issue." *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392
12 (1987); *Wayne v. DHL Worldwide Express*, 294 F.3d 1179, 1183 (9th Cir. 2002); *see also Vaden v.*
13 *Discover Bank*, 129 S. Ct. 1262, 1278 (2009) ("It does not suffice to show that a federal question
14 lurks somewhere inside the parties' controversy, or that a defense or counterclaim would arise under
15 federal law."). Thus, Plaintiff's claim that a federal question is raised because a notice expressly
16 references and incorporates the "Protecting Tenants at Foreclosure Act of 2009" does not establish
17 this Court's jurisdiction
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20 To the contrary, the record indicates that Gerald Lawhorn and Karlyle Lawhorn are named as
21 Defendants in a state court complaint seeking unlawful detainer relief, which arises under state law.
22 *See Fannie Mae v. Suarez*, 2011 U.S. Dist. LEXIS 82300, at *6 (E.D. Cal. 2011) ("Unlawful detainer
23 actions are strictly the province of state court"); *Deutsche Bank Nat'l Trust Co. v. Leonardo*, 2011
24 U.S. Dist. LEXIS 83854, at * 2 (C.D. Cal. 2011) ("the complaint only asserts a claim for unlawful
25 detainer, a cause of action that is purely a matter of state law"). An unlawful detainer plaintiff is
26 entitled to judgment after establishing that the property at issue sold in compliance with California
27 Civil Code section 2924 and that the requisite three-day notice to quit was served on defendant as
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1 required by California Code of Civil Procedure section 1161. *See Litton Loan Servicing, L.P. v.*
2 *Villegas*, U.S. Dist. LEXIS 8018, at *5 (N.D. Cal. 2011) (citing *Evans v. Superior Court*, 67
3 Cal.App.3d 162, 168 (1977)). This unlawful detainer action fails to invoke federal question jurisdiction
4 and is not properly before this Court.

5
6 **Diversity Jurisdiction**

7 28 U.S.C. § 1332(a) establishes diversity of citizenship jurisdiction and provides in pertinent
8 part:

9 The district courts shall have original jurisdiction of all civil actions where the matter in
10 controversy exceeds the sum or value of \$75,000 . . . and is between –

11 (1) citizens of different States . . .

12 To invoke diversity jurisdiction, the amount in controversy must exceed the sum or value of
13 \$75,000. 28 U.S.C. § 1332(a). In an unlawful detainer action, “the right to possession alone [is]
14 involved – not title to the property.” *Litton*, 2011 U.S. Dist. LEXIS 8081, at *6-7. In a federal action,
15 a defendant “bears the burden of actually proving the facts to support jurisdiction, including the
16 jurisdictional amount.” *Sanchez v. Monumental Life Ins.*, 102 F.3d 398, 403 (9th Cir. 1996). Nothing
17 indicates that the unlawful detainer complaint seeks anywhere near \$75,000. In fact, the face of the
18 unlawful detainer complaint states that claimed damages are less than \$10,000. The amount in
19 controversy fails to establish diversity jurisdiction.
20

21 **CONCLUSION AND ORDER**

22 For the reasons discussed above, Defendants’ papers fail to invoke this Court’s subject matter
23 jurisdiction. Accordingly, this case is REMANDED forthwith to the Stanislaus County Superior
24 Court.

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26 IT IS SO ORDERED.

27 Dated: March 31, 2014

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE

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