

1 599 F.3d 1102, 1107 (9th Cir. 2010); *Provincial Gov't of Marinduque v. Placer Dome, Inc.*, 582
2 F.3d 1083, 1087 (9th Cir. 2009). It is presumed that a case lies outside the limited jurisdiction of
3 the federal courts, and the burden of establishing the contrary rests upon the party asserting
4 jurisdiction. *Geographic Expeditions*, 599 F.3d at 1106–07; *Hunter v. Philip Morris USA*, 582
5 F.3d 1039, 1042 (9th Cir. 2009). In addition, “the existence of federal jurisdiction depends solely
6 on the plaintiff’s claims for relief and not on anticipated defenses to those claims.” *ARCO Envtl.*
7 *Remediation, LLC v. Dep’t of Health & Envtl. Quality*, 213 F.3d 1108, 1113 (9th Cir. 2000).
8 “The strong presumption against removal jurisdiction” means that “the court resolves all
9 ambiguity in favor of remand to state court.” *Hunter*, 582 F.3d at 1042; *Gaus v. Miles, Inc.*, 980
10 F.2d 564, 566 (9th Cir. 1992). That is, federal jurisdiction over a removed case “must be rejected
11 if there is any doubt as to the right of removal in the first instance.” *Geographic Expeditions*, 599
12 F.3d at 1107; *Duncan v. Stuetzle*, 76 F.3d 1480, 1485 (9th Cir. 1996); *Gaus*, 980 F.2d at 566. “If
13 at any time prior to judgment it appears that the district court lacks subject matter jurisdiction, the
14 case shall be remanded.” 28 U.S.C. § 1447(c); *Gibson v. Chrysler Corp.*, 261 F.3d 927, 932 (9th
15 Cir. 2001). Remand under 28 U.S.C. § 1447(c) “is mandatory, not discretionary.” *Bruns v.*
16 *NCUA*, 122 F.3d 1251, 1257 (9th Cir. 1997); *see also California ex. rel. Lockyer v. Dynege, Inc.*,
17 375 F.3d 831, 838 (9th Cir. 2004). Where it appears, as it does here, that the district court lacks
18 subject matter jurisdiction over a removed case, “the case shall be remanded.” 28 U.S.C.
19 § 1447(c).

20 “The presence or absence of federal question jurisdiction is governed by the ‘well-pleaded
21 complaint rule,’ which provides that federal jurisdiction exists only when a federal question is
22 presented on the face of the plaintiff’s properly pleaded complaint.” *California v. United States*,
23 215 F.3d 1005, 1014 (9th Cir. 2000); *see also Dynege*, 375 F.3d at 838; *Duncan*, 76 F.3d at 1485.
24 Under the well-pleaded complaint rule, courts look to what “necessarily appears in the plaintiff’s
25 statement of his own claim in the bill or declaration, unaided by anything in anticipation of
26 avoidance of defenses which it is thought the defendant may interpose.” *California*, 215 F.3d at
27 1014. Accordingly, “a case may not be removed on the basis of a federal defense . . . even if the
28 defense is anticipated in the plaintiff’s complaint and both parties concede that the federal defense

1 is the only question truly at issue.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987);
2 *Wayne v. DHL Worldwide Express*, 294 F.3d 1179, 1183 (9th Cir. 2002); *see also Vaden v.*
3 *Discover Bank*, 556 U.S. 49, 70 (2009) (“It does not suffice to show that a federal question lurks
4 somewhere inside the parties’ controversy, or that a defense or counterclaim would arise under
5 federal law.”).

6 Here, defendant Carol Brown has not shown that removal of this action to this federal
7 court is appropriate. Plaintiff’s complaint is a straight-forward unlawful detainer action that is
8 based entirely on state law. As stated above, defendant relies solely on a contemplated defense
9 under the PTFA in attempting to establish federal jurisdiction. The PTFA expired on December
10 31, 2014. *See* Pub. L. No. 111-22 § 704, 123 Stat. 1662 (2009); *see also CIC v. Villa*, No.
11 216CV08243ODWAS, 2016 WL 6808119, at *2 (C.D. Cal. Nov. 17, 2016) (finding, in an
12 unlawful detainer action, that the PTFA offers no defense after its expiration date); *Fairview*
13 *Tasman LLC v. Young*, No. 15-CV-05493-LHK, 2016 WL 199060, at *2 (N.D. Cal. Jan. 18,
14 2016) (same). Nevertheless, even if defendant could assert such a defense, she cannot use such a
15 defense as the basis for removal because the defensive invocation of federal law cannot form the
16 basis of this court’s jurisdiction. *See Vaden*, 556 U.S. at 70; *Caterpillar*, 482 U.S. at 392; *Wayne*,
17 294 F.3d at 1183; *California*, 215 F.3d at 1014.

18 Because there is no federal question appearing in plaintiff’s complaint, defendant has
19 failed to properly invoke this court’s jurisdiction. Remand to the Stanislaus County Superior
20 Court is appropriate and mandatory. 28 U.S.C. § 1447(c); *Geographic Expeditions*, 599 F.3d at
21 1107; *Bruns*, 122 F.3d at 1257.

22 Accordingly,

- 23 1. This action is remanded forthwith to the Stanislaus County Superior Court, pursuant to
24 28 U.S.C. § 1447(c), for lack of subject matter jurisdiction;
- 25 2. Defendant’s motion to proceed in forma pauperis (Doc. No. 2) is denied as having
26 been rendered moot by this order; and

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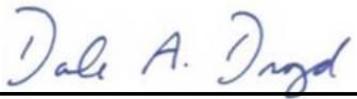
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3. The Clerk of the Court is directed to close this action.

IT IS SO ORDERED.

Dated: January 29, 2017


UNITED STATES DISTRICT JUDGE