

1 F.3d 1083, 1087 (9th Cir. 2009). It is presumed that a case lies outside the limited jurisdiction of
2 the federal courts, and the burden of establishing the contrary rests upon the party asserting
3 jurisdiction. *Geographic Expeditions*, 559 F.3d at 1106–07; *Hunter v. Philip Morris USA*, 582
4 F.3d 1039, 1042 (9th Cir. 2009). In addition, “the existence of federal jurisdiction depends solely
5 on the plaintiff’s claims for relief and not on anticipated defenses to those claims.” *ARCO Envtl.*
6 *Remediation, LLC v. Dep’t of Health & Envtl. Quality*, 213 F.3d 1108, 1113 (9th Cir. 2000).
7 “The strong presumption against removal jurisdiction” means that “the court resolves all
8 ambiguity in favor of remand to state court.” *Hunter*, 582 F.3d at 1042; *Gaus v. Miles, Inc.*, 980
9 F.2d 564, 566 (9th Cir. 1992). That is, federal jurisdiction over a removed case “must be rejected
10 if there is any doubt as to the right of removal in the first instance.” *Geographic Expeditions*, 559
11 F.3d at 1107; *Duncan v. Stuetzle*, 76 F.3d 1480, 1485 (9th Cir. 1996); *Gaus*, 980 F.2d at 566. “If
12 at any time prior to judgment it appears that the district court lacks subject matter jurisdiction, the
13 case shall be remanded.” 28 U.S.C. § 1447(c); *Gibson v. Chrysler Corp.*, 261 F.3d 927, 932 (9th
14 Cir. 2001). Remand under 28 U.S.C. § 1447(c) “is mandatory, not discretionary.” *Bruns v.*
15 *NCUA*, 122 F.3d 1251, 1257 (9th Cir. 1997); *see also California ex. rel. Lockyer v. Dynege, Inc.*,
16 375 F.3d 831, 838 (9th Cir. 2004). Where it appears, as it does here, that the district court lacks
17 subject matter jurisdiction over a removed case, “the case shall be remanded.” 28 U.S.C.
18 § 1447(c).

19 “The presence or absence of federal question jurisdiction is governed by the ‘well-pleaded
20 complaint rule,’ which provides that federal jurisdiction exists only when a federal question is
21 presented on the face of the plaintiff’s properly pleaded complaint.” *California v. United States*,
22 215 F.3d 1005, 1014 (9th Cir. 2000); *see also Dynege*, 375 F.3d at 838; *Duncan*, 76 F.3d at 1485.
23 Under the well-pleaded complaint rule, courts look to what “necessarily appears in the plaintiff’s
24 statement of his own claim in the bill or declaration, unaided by anything in anticipation of
25 avoidance of defenses which it is thought the defendant may interpose.” *California*, 215 F.3d at
26 1014. Accordingly, “a case may not be removed on the basis of a federal defense . . . even if the
27 defense is anticipated in the plaintiff’s complaint and both parties concede that the federal defense
28 is the only question truly at issue.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987);

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

5 Here, defendants have not shown that removal of this action to this federal court is
6 appropriate. Plaintiff’s complaint in this case is a straight-forward unlawful detainer action that is
7 based entirely on state law. As stated above, defendants rely solely on supplemental jurisdiction
8 in connection with the currently pending, related federal case *Palmer v. The Bank of New York*
9 *Mellon, et al.*, No. 1:17-cv-00043-DAD-SKO. Under § 1367(a), “in any civil action of which the
10 district courts have original jurisdiction, the district courts shall have supplemental jurisdiction
11 over all other claims that are so related to claims in the action within such original jurisdiction
12 that they form part of the same case or controversy under Article III of the United States
13 Constitution.” 28 U.S.C. § 1367(a). Section 1367(a), however, “does not authorize supplemental
14 jurisdiction over free-standing state law claims that are related to a separate action over which the
15 court has jurisdiction.” *Wescom Credit Union v. Dudley*, No. 2:10-cv-08203-GAF-SS, 2010 WL
16 4916578, at *3 (C.D. Cal. Nov. 22, 2010); *see also Fabricius v. Freeman*, 466 F.2d 689, 693 (7th
17 Cir. 1972) (“That a related case was pending in federal court was not in itself sufficient grounds
18 for removal under 28 U.S.C. § 1441.”); *Putnam Inv., Inc. v. R.E.F.S. Inc.*, No. 1:12-cv-00862-
19 AWI-DLB, 2012 WL 3288241, at *2 (E.D. Cal. Aug. 10, 2012) (“The Court cannot exercise
20 supplemental jurisdiction over claims made in a separate complaint.”); *Fed. Nat. Mortg. Ass’n v.*
21 *Bridgeman*, No. 2:10-cv-02619-JAM, 2010 WL 5330499, at *5 (E.D. Cal. Dec. 20, 2010)
22 (“[T]hat a related case was pending in federal court at the time of removal is not a proper basis,
23 by itself, for removal and does not establish subject matter jurisdiction.”). Thus, even where the
24 court has jurisdiction over a related action, that does not provide a basis for supplemental
25 jurisdiction over this action presenting a purely state law claim.

26 Because there is no federal question appearing in plaintiff’s complaint in this case,
27 defendant has failed to properly invoke this court’s jurisdiction. Remand to the Fresno County
28 Superior Court is therefore appropriate and mandatory. 28 U.S.C. § 1447(c); *Geographic*

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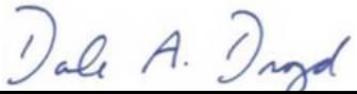
Expeditions, 559 F.3d at 1107; *Bruns*, 122 F.3d at 1257.

Accordingly,

1. This action is remanded forthwith to the Fresno County Superior Court, pursuant to 28 U.S.C. § 1447(c), for lack of subject matter jurisdiction;
2. Defendant’s motion to remand (Doc. No. 5) is dismissed as having been rendered moot by this order; and
3. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: June 28, 2017



UNITED STATES DISTRICT JUDGE