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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RIVER CITY INVESTORS, LLC,

Plaintiff,

No. CIV S-11-1272 FCD DAD PS

vs.

STIRLING HALE, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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By Notice of Removal filed May 12, 2011, this unlawful detainer action was removed from Placer County Superior Court by defendants Stirling Hale and Michelle Hale, who paid the required filing fee. Defendants are proceeding pro se. Accordingly, the matter has been referred to the undersigned for all purposes encompassed by Local Rule 302(c)(21).

It is well established that the statutes governing removal jurisdiction must be “strictly construed against removal.” Libhart v. Santa Monica Dairy Co., 592 F.2d 1062, 1064 (9th Cir. 1979) (citing Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108 (1941)). “Federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992). “The burden of establishing federal jurisdiction falls on the party invoking removal.” Harris v. Provident Life & Accident Ins. Co., 26 F.3d 930, 932 (9th Cir. 1994) (quoting Gould v. Mut. Life Ins. Co., 790 F.2d 769,

1 771 (9th Cir.1986)). Moreover, “the existence of federal jurisdiction depends solely on the  
2 plaintiff’s claims for relief and not on anticipated defenses to those claims.” ARCO Env’tl.  
3 Remediation, LLC v. Dep’t of Health & Env’tl. Quality, 213 F.3d 1108, 1113 (9th Cir. 2000).  
4 Where it appears, as it does here, that the district court lacks subject matter jurisdiction over a  
5 removed case, “the case shall be remanded.” 28 U.S.C. § 1447(c).

6 In conclusory fashion, defendants allege as follows in their notice of removal:  
7 plaintiff’s unlawful detainer action was based on a defective Notice to Occupants to Vacate  
8 Premises; plaintiff could have filed its unlawful detainer action in federal court because it  
9 presents federal questions; plaintiff’s defective notice to vacate failed to comply with the  
10 Protecting Tenants at Foreclosure Act, 12 U.S.C. § 5220; the state court failed to sustain  
11 defendants’ demurrer grounded on the allegation of defective notice.

12 It is evident from defendants’ own allegations and the attached copy of plaintiff’s  
13 state court complaint that plaintiff’s action is nothing more than a garden-variety unlawful  
14 detainer action filed against the former owners of real property located in California and based  
15 wholly on California law. As such, the complaint does not involve any “claim or right arising  
16 under the Constitution, treaties or laws of the United States” that would have permitted plaintiff  
17 to file this action originally in federal court. See 28 U.S.C. § 1441(b). It is evident from  
18 defendants’ arguments that if there are any federal claims in this action they arise solely from  
19 defendants’ own affirmative defenses and not from the plaintiff’s unlawful detainer complaint.

20 For the reasons set forth above, defendants have failed to meet their burden of  
21 establishing a basis for federal jurisdiction.

22 Accordingly, IT IS HEREBY RECOMMENDED that this action be summarily  
23 remanded to the Superior Court of California, County of Placer, and this case be closed.

24 These findings and recommendations will be submitted to the United States  
25 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
26 fourteen days after being served with these findings and recommendations, any party may file

1 written objections with the court and serve a copy on all parties. A document presenting  
2 objections should be titled "Objections to Magistrate Judge's Findings and Recommendations."  
3 Any reply to objections shall be filed and served within seven days after service of the objections.  
4 DATED: July 5, 2011.

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8 DALE A. DROZD  
9 UNITED STATES MAGISTRATE JUDGE

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