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

HAAS BROS LLC,

Plaintiff,

Case No. 2:12-cv-3003 JAM DAD PS

vs.

EHT LOZARO;
YOLANDA LOZARO,

FINDINGS AND RECOMMENDATIONS

Defendants.

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By Notice of Removal filed December 13, 2012, this unlawful detainer action was removed from the San Joaquin County Superior Court by defendant Eht Lozaro, who has paid the required filing fee and who is proceeding pro se. Accordingly, the matter has been referred to the undersigned for all purposes encompassed by Local Rule 302(c)(21).

At the outset, defendants are advised that one party proceeding pro se may not represent any other party proceeding pro se. See Local Rule 183. Thus, each document submitted for filing by defendants must bear the signatures of all defendants. In this regard, the Notice of Removal should have been signed by each of the two defendant, but was signed only by defendant Eht Lozaro. See United Computer Systems, Inc. v. AT & T Corp., 298 F.3d 756, 762 (9th Cir. 2002) (“[T]he usual rule is that all defendants in an action in a state court must join

1 in a petition for removal . . .”).

2 Moreover, it is well established that the statutes governing removal jurisdiction
3 must be “strictly construed against removal.” Libhart v. Santa Monica Dairy Co., 592 F.2d 1062,
4 1064 (9th Cir. 1979) (citing Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108 (1941)).
5 See also Syngenta Crop Prot., Inc. v. Henson, 537 U.S. 28, 32 (2002); Provincial Gov’t of
6 Martinducque v. Placer Dome, Inc., 582 F.3d 1083, 1087 (9th Cir. 2009). “Federal jurisdiction
7 must be rejected if there is any doubt as to the right of removal in the first instance.” Gaus v.
8 Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992). ““The burden of establishing federal jurisdiction
9 falls on the party invoking removal.”” Harris v. Provident Life & Accident Ins. Co., 26 F.3d 930,
10 932 (9th Cir. 1994) (quoting Gould v. Mut. Life Ins. Co., 790 F.2d 769, 771 (9th Cir.1986)). See
11 also Provincial Gov’t of Martinducque, 582 F.3d at 1087. Moreover, “the existence of federal
12 jurisdiction depends solely on the plaintiff’s claims for relief and not on anticipated defenses to
13 those claims.” ARCO Envtl. Remediation, LLC v. Dep’t of Health & Envtl. Quality, 213 F.3d
14 1108, 1113 (9th Cir. 2000). Where it appears, as it does here, that the district court lacks subject
15 matter jurisdiction over a removed case, “the case shall be remanded.” 28 U.S.C. § 1447(c).

16 In removing this action, defendant Eht Lozaro alleges that in this action “Federal
17 question jurisdiction exists because Defendants’ demurrer, a pleading depend (sic) on the
18 determination of Defendants’ rights and Plaintiffs duties under federal law.” (Notice of Removal
19 (Doc. No. 1) at 3.) Specifically, defendant Eht Lozaro alleges plaintiff has “failed to comply”
20 with 12 U.S.C. § 5220. (Id.)

21 It is evident, however, from a reading of plaintiff’s complaint that this is nothing
22 more than a garden-variety unlawful detainer action filed against the former owner of real
23 property located in California and that it is based wholly on California law. As such, the
24 complaint does not involve any “claim or right arising under the Constitution, treaties or laws of
25 the United States” that would have permitted plaintiff to file this action originally in federal
26 court. See 28 U.S.C. § 1441(b). Moreover, it is evident from defendant Eht Lozaro’s argument

1 that any federal claims in this action arise solely from defendants' own affirmative defenses and
2 not from the plaintiff's unlawful detainer complaint. ARCO Env'tl. Remediation, LLC, 213 F.3d
3 at 1113. Thus, defendant Eht Lozaro has failed to meet his burden of establishing a basis for
4 federal jurisdiction over this action.

5 Accordingly, IT IS RECOMMENDED that this action be summarily remanded to
6 the San Joaquin County Superior Court and that this case be closed.

7 These findings and recommendations will be submitted to the United States
8 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
9 fourteen days after being served with these findings and recommendations, any party may file
10 written objections with the court and serve a copy on all parties. A document presenting
11 objections should be titled "Objections to Magistrate Judge's Findings and Recommendations."
12 Any reply to objections shall be filed and served within seven days after service of the objections.
13 The parties are advised that failure to file objections within the specified time may waive the
14 right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: December 17, 2012.

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19 DALE A. DROZD
20 UNITED STATES MAGISTRATE JUDGE

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