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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   BOSANEK ENTERPRISES,

11   Plaintiff,   Case No. 2:13-cv-00187 LKK DAD PS

12   vs.

13   REVELYN CATLIN,   FINDINGS AND RECOMMENDATIONS

14   Defendant.

15   _____/

16   By Notice of Removal filed January 30, 2013, this unlawful detainer action was

17   removed from the Yuba County Superior Court by defendant Revelyn Catlin who is proceeding

18   pro se. Accordingly, the matter has been referred to the undersigned for all purposes

19   encompassed by Local Rule 302(c)(21).

20   It is well established that the statutes governing removal jurisdiction must be

21   "strictly construed against removal." Libhart v. Santa Monica Dairy Co., 592 F.2d 1062, 1064

22   (9th Cir. 1979) (citing Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108 (1941)). See also

23   Syngenta Crop Prot., Inc. v. Henson, 537 U.S. 28, 32 (2002); Provincial Gov't of Martinduque v.

24   Placer Dome, Inc., 582 F.3d 1083, 1087 (9th Cir. 2009). "Federal jurisdiction must be rejected if

25   there is any doubt as to the right of removal in the first instance." Gaus v. Miles, Inc., 980 F.2d

26   564, 566 (9th Cir. 1992). "'The burden of establishing federal jurisdiction falls on the party

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1 invoking removal.'" Harris v. Provident Life & Accident Ins. Co., 26 F.3d 930, 932 (9th Cir.

2 1994) (quoting Gould v. Mut. Life Ins. Co., 790 F.2d 769, 771 (9th Cir.1986)). See also

3 Provincial Gov't of Martinduque, 582 F.3d at 1087. Moreover, "the existence of federal

4 jurisdiction depends solely on the plaintiff's claims for relief and not on anticipated defenses to

5 those claims." ARCO Envtl. Remediation, LLC v. Dep't of Health & Envtl. Quality, 213 F.3d

6 1108, 1113 (9th Cir. 2000). Where it appears, as it does here, that the district court lacks subject

7 matter jurisdiction over a removed case, "the case shall be remanded." 28 U.S.C. § 1447(c).

8   In removing this action, defendant alleges that this court has jurisdiction over this

9 action because defendants assert "in their Answer to the Complaint" that they are "protected from

10 eviction" under "Title VII of the Emergency Economic Stabilization" Act. (Notice of Removal

11 (Doc. No. 1) at 2.)

12   However, as noted above, "the existence of federal jurisdiction depends solely on

13 the plaintiff's claims for relief and not on anticipated defenses to those claims." ARCO Envtl.

14 Remediation, LLC, 213 F.3d at 1113. Moreover, it appears from reading a copy of defendant's

15 answer to plaintiff's complaint that this action is nothing more than a garden-variety unlawful

16 detainer action filed against the former owners of real property located in California, that it is

17 based wholly on California law and that it does not involve an amount in controversy that

18 exceeds $75,000.[1] (Id. at 10.) Thus, the undersigned finds that defendant has failed to meet her

19 burden of establishing federal jurisdiction over plaintiff's state court action.

20   Accordingly, IT IS RECOMMENDED that this action be summarily remanded to

21 the Yuba County Superior Court and that this case be closed.

22   These findings and recommendations will be submitted to the United States

23 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within

24 fourteen days after being served with these findings and recommendations, any party may file

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26   [1] Although the Notice of Removal purports to attach a copy of plaintiff's compliant,
defendant Catlin has not provided the court with a copy of plaintiff's complaint.

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 The parties are advised that failure to file objections within the specified time may waive the

5 right to appeal the District Court's order. <u>Martinez v. Ylst</u>, 951 F.2d 1153 (9th Cir. 1991).

6 DATED: February 4, 2013.

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   DALE A. DROZD

9 UNITED STATES MAGISTRATE JUDGE

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