

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

DEUTSCHE BANK NATIONAL TRUST COMPANY,

No. 2:13-cv-0970 KJM JAM CKD PS

Plaintiff,

v.

AMOS SNELL, et al.,

Defendants.

ORDER AND FINDINGS AND RECOMMENDATIONS

This action was removed from state court. Removal jurisdiction statutes are strictly construed against removal. See Libhart v. Santa Monica Dairy Co., 592 F.2d 1062, 1064 (9th Cir. 1979). "Federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance." Gaus v. Miles, 980 F.2d 564, 566 (9th Cir. 1992). "The burden of establishing federal jurisdiction falls on the party invoking removal." Harris v. Provident Life and Accident Ins. Co., 26 F.3d 930 (9th Cir.1994) (quoting Gould v. Mut. Life Ins. Co. of New York, 790 F.2d 769, 771 (9th Cir.1986)). Where it appears the district court lacks subject matter jurisdiction, the case shall be remanded. 28 U.S.C. § 1447(c).

In conclusory fashion, the removal petition alleges the complaint is subject to federal jurisdiction. The removal petition does not specifically reference federal question or diversity jurisdiction. Removal based on federal question jurisdiction is proper only when a federal question is presented on the face of the plaintiff's properly pleaded complaint. Caterpillar Inc. v.

1 Williams, 482 U.S. 386, 392 (1987). However, the exhibits attached to the removal petition 2 establish the state court action is nothing more than a simple unlawful detainer action, and the 3 state court action is titled as such. To the extent defendant seeks to invoke diversity jurisdiction, 4 insufficient allegations are made with respect to the diversity of citizenship of the parties. Defendant has failed to meet his burden of establishing federal jurisdiction and the matter should 5 6 therefore be remanded. See generally Singer v. State Farm Mutual Automobile Insurance Co., 7 116 F.3d 373, 375-376 (9th Cir. 1997). 8 Defendant Amos Snell has filed a petition to proceed in forma pauperis. The petition is 9 incomplete. Although defendant indicates he receives a pension, he has not stated the amount. 10 Because the court will recommend remand of this action and defendant Denise Thomas has not 11 joined in the petition to proceed in forma pauperis, the petition will be denied without prejudice. 12 Accordingly, IT IS HEREBY ORDERED that the petition to proceed in forma pauperis 13 (ECF No. 2) is denied without prejudice; and 14 IT IS HEREBY RECOMMENDED that the above-entitled action be summarily remanded 15 to the Superior Court of California, County of Solano. 16 These findings and recommendations are submitted to the United States District Judge 17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days 18 after being served with these findings and recommendations, any party may file written 19 objections with the court and serve a copy on all parties. Such a document should be captioned 20 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections 21 shall be served and filed within seven days after service of the objections. The parties are advised 22 ///// 23 ///// 24 ///// 25 ///// 26 ////

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¹ The court notes that only one defendant signed the removal petition and all defendants did not properly join in the removal.

1	that failure to file objections within the specified time may waive the right to appeal the District
2	Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).
3	Dated: May 21, 2013
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5	UNITED STATES MAGISTRATE JUDGE
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