I		1
1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10		
11	LILY COMPANY,	No. 2:14-cv-2115 TLN CKD PS
12	Plaintiff,	
13	v.	ORDER AND
14	KALEEDAH JORDAN,	FINDINGS AND RECOMMENDATIONS
15	Defendant.	
16		
17		
18	This action was removed from state court. Removal jurisdiction statutes are strictly	
19	construed against removal. See Libhart v. Santa Monica Dairy Co., 592 F.2d 1062, 1064 (9th Cir.	
20	1979). "Federal jurisdiction must be rejected if there is any doubt as to the right of removal in the	
21	first instance." Gaus v. Miles, 980 F.2d 564, 566 (9th Cir. 1992). "The burden of establishing	
22	federal jurisdiction falls on the party invoking removal." <u>Harris v. Provident Life and Accident</u>	
23	Ins. Co., 26 F.3d 930 (9th Cir. 1994) (quoting Gould v. Mut. Life Ins. Co. of New York, 790 F.2d	
24	769, 771 (9th Cir. 1986)). Where it appears the district court lacks subject matter jurisdiction, the	
25	case shall be remanded. 28 U.S.C. § 1447(c).	
26	In conclusory fashion, the removal petition alleges the complaint is subject to federal	
27	question jurisdiction. Removal based on federal question jurisdiction is proper only when a	
28	federal question is presented on the face of the plaintiff's properly pleaded complaint. <u>Caterpillar</u>	
		1

1	Inc. v. Williams, 482 U.S. 386, 392 (1987). However, the exhibits attached to the removal	
2	petition establish the state court action is nothing more than a simple unlawful detainer action,	
3	and the state court action is titled as such. Defendant also contends the action is properly	
4	removed under diversity jurisdiction. However, there are no allegations regarding the citizenship	
5	of the parties and the amount of controversy is not met on the face of the complaint. Defendant	
6	has failed to meet the burden of establishing federal jurisdiction and the matter should therefore	
7	be remanded. See generally Singer v. State Farm Mutual Automobile Insurance Co., 116 F.3d	
8	373, 375-376 (9th Cir. 1997).	
9	Defendant has filed a motion to proceed in forma pauperis. Because the court will	
10	recommend remand of this action, the motion will be denied without prejudice.	
11	Accordingly, IT IS HEREBY ORDERED that the motion to proceed in forma pauperis	
12	(ECF No. 2) is denied without prejudice; and	
13	IT IS HEREBY RECOMMENDED that the above-entitled action be summarily remanded	
14	to the Superior Court of California, County of Sacramento.	
15	These findings and recommendations are submitted to the United States District Judge	
16	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days	
17	after being served with these findings and recommendations, any party may file written	
18	objections with the court and serve a copy on all parties. Such a document should be captioned	
19	"Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections	
20	shall be served and filed within seven days after service of the objections. The parties are advised	
21	that failure to file objections within the specified time may waive the right to appeal the District	
22	Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).	
23	Dated: September 16, 2014 Carop U. Delany	
24	CAROLYN K. DELANEY	
25	UNITED STATES MAGISTRATE JUDGE	
26	4 lily-jordan.ifp.remud	
27		
28		
	2	