



1 first instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). As explained below,  
2 defendant has failed to meet that burden.

3 The notice of removal references several federal statutes, and it appears that defendant  
4 contends that this court has federal question jurisdiction over the matter pursuant to 28 U.S.C.  
5 § 1331. ECF. No. 1 at 1-2. However, a review of the complaint reveals that plaintiff does not  
6 allege any federal claims; instead, plaintiff alleges only unlawful detainer under state law. ECF  
7 No. 1 at 8-10 (Compl.). The presence or absence of federal question jurisdiction “is governed by  
8 the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a  
9 federal question is presented on the face of plaintiff’s properly pleaded complaint.” *Caterpillar,*  
10 *Inc. v. Williams*, 482 U.S. 386, 392 (1987). This is the case where the complaint “establishes  
11 either that [1] federal law creates the cause of action or that [2] the plaintiff’s right to relief  
12 necessarily depends on resolution of a substantial question of federal law.” *Williston Basin*  
13 *Interstate Pipeline Co. v. An Exclusive Gas Storage Leasehold & Easement*, 524 F.3d 1090, 1100  
14 (9th Cir. 2008) (quoting *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 27-28  
15 (1983)). Here, plaintiff’s one cause of action is for unlawful detainer under state law, and under  
16 the well-pleaded complaint rule, a defendant’s claims or defenses may not serve as a basis for  
17 removal.<sup>2</sup> See *Takeda v. Nw. Nat’l Life Ins. Co.*, 765 F.2d 815, 822 (9th Cir. 1985).

18 Therefore, because defendant has not adequately established a basis for this court’s  
19 subject matter jurisdiction, the case must be remanded. See 28 U.S.C. § 1447(c).

20 ////

21 ////

22 ////

---

23  
24 <sup>2</sup> Nor has defendant established that this court has diversity jurisdiction, since the notice  
25 of removal does not establish diversity of the parties or that the amount in controversy exceeds  
26 \$75,000, nor does it appear that removal by defendant would be proper under 28 U.S.C.  
27 § 1441(b), which permits removal in diversity cases only when “none of the parties in interest  
28 properly joined and served as defendants is a citizen of the State in which such action is brought.”  
See also *Fed. Home Loan Mortg. Corp. v. Cantillano*, 2012 WL 1193613, at \*2 (C.D. Cal. Apr. 9,  
2012) (“The appropriate dollar amount in determining the amount of controversy in unlawful  
detrainer actions is the rental value of the property, not the value of the property as a whole.”).

1           Accordingly, IT IS HEREBY RECOMMENDED that the above-captioned case be  
2 REMANDED to the Superior Court of the State of California in and for the County of Solano.

3           These findings and recommendations are submitted to the United States District Judge  
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
5 after being served with these findings and recommendations, any party may file written  
6 objections with the court and serve a copy on all parties. Such a document should be captioned  
7 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections  
8 shall be served and filed within fourteen days after service of the objections. Failure to file  
9 objections within the specified time may waive the right to appeal the District Court’s order.

10 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th  
11 Cir. 1991).

12 DATED: March 2, 2015.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28