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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT DUNHAM, et al.,
Plaintiffs,
v.
CHERRY WATLEY,
Defendant.

No. 2:15-cv-1044 MCE CKD PS

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 party invoking removal bears the burden of establishing federal jurisdiction. Hunter v. Philip Morris USA, 582 F.3d 1039 (9th Cir. 2009). 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 question 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. Williams, 482 U.S. 386, 392 (1987). However, the exhibits attached to the removal petition establish the state court action is nothing more than a simple unlawful detainer action,

1 and the state court action is titled as such. Defendant has failed to meet her burden of establishing
2 federal jurisdiction and the matter should therefore be remanded. See generally Singer v. State
3 Farm Mutual Automobile Insurance Co., 116 F.3d 373, 375-376 (9th Cir. 1997).

4 Defendant has filed a motion to proceed in forma pauperis. Because the court will
5 recommend remand of this action, the motion will be denied without prejudice.

6 Accordingly, IT IS HEREBY ORDERED that defendant's motion to proceed in forma
7 pauperis (ECF No. 2) is denied without prejudice; and

8 IT IS HEREBY RECOMMENDED that the above-entitled action be summarily remanded
9 to the Superior Court of California, County of Solano.

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

18 Dated: May 28, 2015

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21 CAROLYN K. DELANEY
22 UNITED STATES MAGISTRATE JUDGE

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