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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Strategic Acquisitions, Inc.,
Plaintiff,
v.
Gilbert J. Heredia; Lori E.
Heredia; all occupants in
possession;
Defendants.

No. 2:15-cv-02346-GEB-EFB

SUA SPONTE REMAND ORDER*

On November 12, 2015, Defendants filed a Notice of Removal removing this unlawful detainer action from the Superior Court of California for the County of Alameda. (Notice of Removal ("NOR"), ECF No. 1.) For the following reasons, the Court *sua sponte* remands this case to the Superior Court of California for the County of Alameda for lack of subject matter jurisdiction.

"There is a 'strong presumption against removal jurisdiction,' and the removing party has the burden of establishing that removal is proper." Lindley Contours, LLC v. AABB Fitness Holdings, Inc., 414 F. App'x 62, 64 (9th Cir. 2011) (quoting Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)). "If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall

* The undersigned judge revokes any actual or anticipated referral to a Magistrate Judge for the purposes of Findings and Recommendations in this case.

1 be remanded." 28 U.S.C. § 1447(c). "The court may - indeed must -
2 remand an action *sua sponte* if it determines that it lacks
3 subject matter jurisdiction." GFD, LLC v. Carter, No. CV 12-08985
4 MMM (FFMx), 2012 WL 5830079, at *2 (C.D. Cal. Nov. 15, 2012)
5 (citing Kelton Arms Condo. Owners Ass'n v. Homestead Ins. Co.,
6 346 F.3d 1190, 1192 (9th Cir. 2003)).

7 Defendants assert in the Notice of Removal ("NOR") that
8 both federal question and diversity removal jurisdiction exist.
9 (NOR 1:21-29.)

10 Defendants have not shown the existence of federal
11 question jurisdiction. Review of the Complaint reveals Plaintiff
12 alleges a single claim for unlawful detainer under California
13 law, and "[a]s a general rule, . . . a case will not be removable
14 if the complaint does not affirmatively allege a federal claim."
15 Beneficial Nat'l Bank v. Anderson, 539 U.S. 1, 6 (2003). Under
16 the "well-pleaded complaint rule[,] . . . 'a case may not be
17 removed to federal court on the basis of a federal defense . . .
18 even if the defense is anticipated in the plaintiff's
19 complaint'" Retail Prop. Trust v. United Bhd. of
20 Carpenters & Joiners of Am., 768 F.3d 938, 947 (9th Cir. 2014)
21 (quoting Caterpillar Inc. v. Williams, 482 U.S. 386, 393 (1987)).
22 Similarly, "federal [question] jurisdiction [cannot] rest upon an
23 actual or anticipated counterclaim." Vaden v. Discover Bank, 556
24 U.S. 49, 50 (2009).

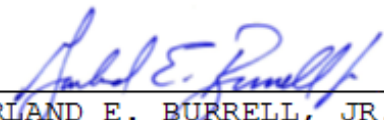
25 Further, Defendants have not shown the existence of
26 diversity jurisdiction. Each Defendant is not alleged to have
27 diverse citizenship from Plaintiff, and the Complaint does not
28 allege that the matter in controversy exceeds \$75,000. 28 U.S.C.

1 § 1332(a). The Complaint was filed as a limited civil action
2 where the "amount demanded does not exceed \$10,000." (See Compl.,
3 Ex. A to NOR, ECF 1 at ECF p. 10.)

4 For the stated reasons, this case is remanded to the
5 Superior Court of California for the County of Alameda. In light
6 of this ruling, the Court need not decide Defendant Lori
7 Heredia's application to proceed *in forma pauperis*.

8 Dated: December 3, 2015

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GARLAND E. BURRELL, JR.
Senior United States District Judge