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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SOUTHSIDE BROOKSHORE  
ASSOCIATES, LP,  
  
Plaintiff,  
  
v.  
  
PHILIP LEE HENRY,  
  
Defendant.

No. 2:17-cv-00488-KJM-DB

ORDER

The issue in this case is unlawful detainer, with an amount in controversy of less than \$2,000. *See* ECF No. 1. On March 7, 2017, defendant Philip Lee Henry removed this case from state court to federal court. *Id.* Additionally, defendant filed a motion to proceed in forma pauperis. ECF No. 2.

When a case “of which the district courts of the United States have original jurisdiction” is initially brought in state court, a defendant may remove it to federal court. 28 U.S.C. § 1441(a). There are two bases for federal subject matter jurisdiction: (1) federal question jurisdiction under 28 U.S.C. § 1331, and (2) diversity jurisdiction under 28 U.S.C. § 1332. A federal district court may remand a case *sua sponte* where a defendant has not established federal jurisdiction. *See Enrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988) (citing *Wilson v. Republic Iron & Steel Co.*, 257 U.S. 92, 97 (1921)). “If at any time

1 before final judgment it appears that the district court lacks subject matter jurisdiction, the case  
2 shall be remanded.” 28 U.S.C. § 1447(c).

3 Here, the court finds the case should be remanded to San Joaquin County Superior  
4 Court. Because the amount in controversy is less than \$75,000, and the main issue turns on state  
5 law, removal is improper because this court does not have subject matter jurisdiction under 28  
6 U.S.C. §§ 1331 and 1441.

7 I. CONCLUSION

8 This case is remanded to San Joaquin County Superior Court. Defendant’s IFP  
9 motion is DENIED as MOOT.

10 IT IS SO ORDERED.

11 DATED: March 10, 2017

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15 UNITED STATES DISTRICT JUDGE  
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