

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

VALLEY FAIR REALTY
CORPORATION,

Plaintiff,

v.

CALVIN HALE, JEANETTE JACOBS-
HALE, Does 1-10,

Defendants.

Case No.: 2:17-cv-01806-MCE-DB-PS

ORDER

On August 29, 2017, Defendants Calvin Hale and Jeanette Jacobs-Hale, proceeding in pro se, filed a Notice of Removal of this unlawful detainer action from the Yuba County Superior Court.¹ ECF No. 1. This Court has an independent duty to ascertain its jurisdiction and may remand sua sponte for lack of subject matter jurisdiction. See 28 U.S.C. § 1447(c). “The burden of establishing federal jurisdiction is on the party seeking removal, and the removal statute is strictly construed against removal jurisdiction.” Emrich v. Touche Ross & Co., 846 F.2d 1190, 1195 (9th Cir. 1988) (internal citation omitted). “Federal jurisdiction must be rejected if there is any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th

¹ Despite Defendants’ pro se status, the undersigned revokes any actual or anticipated referral to a Magistrate Judge. See E.D. Cal. Local R. 302(c)(21).

1 Cir. 1992). As explained below, Defendants have failed to meet that burden.

2 The Notice of Removal is premised on the argument that this Court has federal
3 question jurisdiction under 28 U.S.C. § 1331, asserting that they have a defense
4 available to Plaintiff's unlawful detainer complaint on grounds that the 90 day notice of
5 eviction required under a federal statute was not provided. Examination of Plaintiffs'
6 Complaint shows that it is an unlawful detainer complaint whose demand is specifically
7 limited at less than \$10,000. Plaintiff's Complaint does not allege any federal claims;
8 instead, Plaintiff alleges only unlawful detainer under state law. ECF No. 5-1 at 2-20.

9 "The presence or absence of federal-question jurisdiction is governed by the 'well-
10 pleaded complaint rule,' which provides that federal jurisdiction exists only when a
11 federal question is presented on the fact of plaintiff's properly pleaded complaint."
12 Caterpillar, Inc. v. Williams, 482 U.S. 386, 392 (1987). This is the case where the
13 complaint "establishes either that [1] federal law creates the cause of action or that [2]
14 the plaintiff's right to relief necessarily depends on resolution of a substantial question of
15 federal law." Williston Basin Interstate Pipeline Co. v. An Exclusive Gas Storage
16 Leasehold & Easement, 524 F.3d 1090, 1100 (9th Cir. 2008) (quoting Franchise Tax Bd.
17 v. Constr. Laborers Vacation Trust, 463 U.S. 1, 27-28 (1983)).

18 Here, Plaintiff's sole claim is for unlawful detainer under state law. At most,
19 Defendants argue that they have a defense under federal law. "A case may not be
20 removed to federal court on the basis of a federal defense . . . even if the defense is
21 anticipated in the plaintiff's complaint, and even if both parties admit that the defense is
22 the only question truly at issue in the case." ARCO Envtl. Remediation, LLC v. Dep't. of
23 Health & Envtl. Quality of the State of Montana, 213 F.3d 1108, 1113 (9th Cir. 2000)
24 (citation and quotation marks omitted). Therefore, this Court lacks jurisdiction under 28
25 U.S.C. §§ 1331.

26 Accordingly:

27 1. The action is REMANDED to the Yuba County Superior Court.

28 2. The Clerk of Court is directed to serve a certified copy of the order on the

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Clerk of the Yuba County Superior Court, and reference the state case number (No. CVUD17-01131) in the proof of service.

3. The Clerk of Court is directed to close this case and vacate all dates.

4. The Clerk of the Court is ordered not to open another case removing the following unlawful detainer action: No. CVUD17-01131.

IT IS SO ORDERED.

Dated: September 18, 2017


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE