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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

OPEN DOOR PROPERTIES, LLC,
Plaintiff,
v.
SONIA EFFERIN,
Defendant.

No. 2:17-cv-02638-GEB-AC

SUA SPONTE REMAND ORDER*

On December 18, 2017, Defendant proceeding in propria persona filed a Notice of Removal removing this unlawful detainer action from the Superior Court of California for the County of Sacramento. Notice of Removal ("NOR") 1, ECF No. 1. For the following reasons, the Court *sua sponte* remands this case to the Superior Court of California for the County of Sacramento for lack of subject matter jurisdiction.

"Only state-court [cases] that originally could have been filed in federal court may be removed to federal court by the defendant." Caterpillar, Inc. v. Williams, 482 U.S. 386, 392 (1987). "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)

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

1 (quoting Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992)).
2 "If at any time before final judgment it appears that the
3 district court lacks subject matter jurisdiction, the case shall
4 be remanded." 28 U.S.C. § 1447(c). "The court may - indeed must
5 - remand an action *sua sponte* if it determines that it lacks
6 subject matter jurisdiction." GFD, LLC v. Carter, No. CV 12-
7 08985 MMM (FFMx), 2012 WL 5830079, at *2 (C.D. Cal. Nov. 15,
8 2012) (citing Kelton Arms Condo. Owners Ass'n v. Homestead Ins.
9 Co., 346 F.3d 1190, 1192 (9th Cir. 2003)).

10 Defendant alleges in her Notice of Removal that federal
11 question jurisdiction justifies removal because her eviction is
12 in violation of the "Protecting Tenants at Foreclosure Act 2009
13 ['PTFA']." NOR ¶ 3, 13. Specifically, Defendant contends:

14 The PTFA is . . . the entire basis for the
15 action to eject a bona fide residential
16 tenant of a foreclosed landlord. Even without
17 any defense of the PTFA being raised,
18 Plaintiff cannot state a cause of action to
19 remove such a tenant without framing the
prima facide [sic] case in the language of
the PTFA. The notice purports to comply with
the PTFA, and without the reference to the
90-day notice required by the PTFA, Plaintiff
would be unable to evict any such tenant.

20 Id. at ¶ 13.

21 Defendant has not shown the existence of federal
22 question jurisdiction. Review of the Complaint reveals Plaintiff
23 alleges a single claim for unlawful detainer under California
24 law, and "[a]s a general rule, . . . a case will not be removable
25 if the complaint does not affirmatively allege a federal claim."
26 Beneficial Nat'l Bank v. Anderson, 539 U.S. 1, 6 (2003). Under
27 the "well-pleaded complaint rule[,] . . . 'a case may not be
28 removed to federal court on the basis of a federal defense . . .

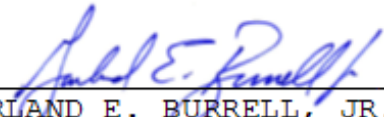
1 even if the defense is anticipated in the plaintiff's
2 complaint" Retail Prop. Trust v. United Bhd. of
3 Carpenters & Joiners of Am., 768 F.3d 938, 947 (9th Cir. 2014)
4 (quoting Caterpillar, 482 U.S. at 393); see also Vaden v.
5 Discover Bank, 556 U.S. 49, 60 (2009) ("Federal jurisdiction
6 cannot be predicated on an actual or anticipated
7 defense").

8 For the stated reasons, this case is remanded to the
9 Superior Court of California for the County of Sacramento.

10 IT IS SO ORDERED.

11 Dated: December 19, 2017

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