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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GEORGE S. LOUIE,  
Plaintiff,

No. C 07-00833 CRB

**ORDER TO SHOW CAUSE**

v.

HILTON,  
Defendant.

Plaintiff filed a complaint in state court making state law claims under the California Disabled Persons Act, the California Unruh Act, and Health and Safety Code Part 5.5. Now pending before the Court is defendant Hilton’s Notice of Removal based on federal question jurisdiction.

A district court may *sua sponte* raise the issue of subject matter jurisdiction. See Galt G/S v. Hapag-Lloyd AG, 60 F.3d 1370, 1373 (9th Cir. 1995). Removal pursuant to 28 U.S.C. section 1441(a), as defendant purports to execute here, is only appropriate if the “complaint contains a cause of action that is within the original jurisdiction” of this court. Toumajian v. Frailey, 135 F.3d 648, 653 (9th Cir. 1998). Defendant’s Notice of Removal contends that this Court has original jurisdiction “because the “relief Plaintiff seeks is exclusive to, and requires interpretation and enforcement of federal law,” namely, the Americans with Disabilities Act (“ADA”). Notice of Removal at 2. As defendant concedes,

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1 the complaint does not make any reference to the ADA. The Notice of Removal is bereft of  
2 any caselaw that suggests that the complaint's reference to certain relief which defendant  
3 contends is only available under the ADA is sufficient to warrant removal. Defendant is  
4 therefore ORDERED to show cause as to the Court's original subject matter jurisdiction in  
5 this matter. Defendant must file a memorandum that demonstrates that the Court has  
6 jurisdiction no later than Friday, February 23, 2007. Plaintiff's response, if any, shall be  
7 filed on or before March 9, 2007. The Court will take the matter under submission at that  
8 time and advise the parties if oral argument is required.

9 **IT IS SO ORDERED.**

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11 Dated: Feb. 14, 2007



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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE

United States District Court  
For the Northern District of California