

United States District Court
For the Northern District of California

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

HJ HOME INVESTMENTS, LLC,
Plaintiff,
v.
GRACIELA OLSOAGA-DECAMPOS,
Defendant.

No. C 12-04432 JSW

**ORDER DENYING
APPLICATION TO PROCEED IN
FORMA PAUPERIS; VACATING
CASE MANAGEMENT
CONFERENCE, AND
REMANDING ACTION**

Defendant removed on the basis of federal question. 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)..

“[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant ... to the district court of the United States for the district and division embracing the place where such action is pending.” *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 7-8 (1983) (citation omitted); see also 28 U.S.C. § 1441. However, federal courts are courts of limited jurisdiction. See, e.g., *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). An action originally filed in state court may be removed to federal court only if the district court could have exercised jurisdiction over such action if initially filed there. 28 U.S.C. § 1441(a); *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). The burden of establishing federal jurisdiction for purposes of removal is on the party seeking removal. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004); see also *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir.

1 1992). Moreover, a court must construe the removal statute strictly and reject jurisdiction if
2 there is any doubt regarding whether removal was proper. *Duncan v. Stuetzle*, 76 F.3d 1480,
3 1485 (9th Cir. 1996); *see also Gaus*, 980 F.2d at 566 (“Federal jurisdiction must be rejected if
4 there is any doubt as to the right of removal in the first instance.”)

5 “The presence or absence of federal-question jurisdiction is governed by the ‘well-
6 pleaded complaint rule.’” *Caterpillar*, 482 U.S. at 392. The well-pleaded complaint rule
7 recognizes that the plaintiff is the master of his or her claim. “[H]e or she may avoid federal
8 jurisdiction by exclusive reliance on state law.” *Id.* Thus, under the well-pleaded complaint
9 rule, federal-question jurisdiction arises where the “complaint establishes either that federal law
10 creates the cause of action or that the plaintiff’s right to relief necessarily depends on resolution
11 of a substantial question of federal law.” *Franchise Tax Bd.*, 463 U.S. at 27-28.

12 “It is well settled law that a case may *not* be removed to federal court on the basis of a
13 federal defense, ... even if the defense is anticipated in the plaintiff’s complaint, and even if both
14 parties concede that the federal defense is the only true question at issue.” *Caterpillar*, 482 U.S.
15 at 393 (emphasis in original). Based upon the Court’s review of the complaint, Defendant
16 removed the action based upon a federal defense. Plaintiff’s complaint only asserts a state-law
17 claim for unlawful detainer. Therefore, this Court lacks jurisdiction over this case.

18 Accordingly, the Court HEREBY DENIES Plaintiff’s application to proceed *in forma*
19 *pauperis*, VACATES the case management conference scheduled for January 11, 2013, and
20 REMANDS this action to the Superior Court of the State of California, County of Contra Costa,
21 Delta-Pittsburg Judicial Division.

22 **IT IS SO ORDERED.**

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24 Dated: August 28, 2012



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 HJ HOME INVESTMENTS, LLC,
5 Plaintiff,

Case Number: CV12-04432 JSW

6 **CERTIFICATE OF SERVICE**

7 v.


8 GRACIELA OLSCOAGA-DECAMPOS et al,
9 Defendant.

10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
11 Court, Northern District of California.

12 That on August 28, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
13 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
14 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
15 located in the Clerk's office.

16 Graciela Olascoaga-Decampos
17 2028 Crater Peak Way
18 Antioch, CA 94531

19 Dated: August 28, 2012


20 Richard W. Wieking, Clerk
21 By: Jennifer Ottolini, Deputy Clerk
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