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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BIN YU,  
Plaintiff,  
v.  
MICHAEL CARROLL,  
Defendant.

Case No. [14-cv-04101-MEJ](#)

**ORDER TO SHOW CAUSE**

On September 10, 2014, Defendant Michael Carroll removed this unlawful detainer action from Contra Costa County Superior Court. However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at \*3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at \*2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court. Accordingly, the Court ORDERS Defendant to show cause why this case should not be remanded to the Contra Costa County Superior Court. Defendant shall file a declaration by September 22, 2014, and the Court shall conduct a hearing on October 2, 2014 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California. In the declaration, Defendant must address how this Court has jurisdiction over Plaintiff's unlawful detainer claim.

Defendant should be mindful that an anticipated federal defense or counterclaim is not sufficient to confer jurisdiction. *Franchise Tax Bd. of Cal. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 10 (1983); *Berg v. Leason*, 32 F.3d 422, 426 (9th Cir. 1994). "A case may not be removed to federal court on the basis of a federal defense, . . . even if the defense is anticipated in the plaintiff's complaint, and even if both parties admit that the defense is the only question truly

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at issue in the case.” *ARCO Env’tl. Remediation, LLC v. Dep’t of Health and Env’tl. Quality of the State of Montana*, 213 F.3d 1108, 1113 (9th Cir. 2000); *see also Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005) (“A federal law defense to a state-law claim does not confer jurisdiction on a federal court, even if the defense is that of federal preemption and is anticipated in the plaintiff’s complaint.”). Thus, any anticipated defense is not a valid ground for removal.

**IT IS SO ORDERED.**

Dated: September 11, 2014



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MARIA-ELENA JAMES  
United States Magistrate Judge

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3  
4 BIN YU,  
5 Plaintiff,  
6 v.  
7 MICHAEL CARROLL,  
8 Defendant.

Case No. [14-cv-04101-MEJ](#)

**CERTIFICATE OF SERVICE**


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

11 That on 9/11/2014, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
14 located in the Clerk's office.

14 Michael Carroll  
15 172 Coral Bellway  
16 Oakley, CA 94561

17 Dated: 9/11/2014

19 Richard W. Wieking  
20 Clerk, United States District Court

21  
22 By:   
23 Chris Nathan, Deputy Clerk to the  
24 Honorable MARIA-ELENA JAMES

United States District Court  
Northern District of California