

United States District Court  
Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DS HOUSING CCCRR-01, LP,  
Plaintiff,  
v.  
JESSY EXUM,  
Defendant.

Case No. [24-cv-02552-TLT](#)

**ORDER GRANTING MOTION TO  
REMAND: SUPERIOR COURT OF  
THE STATE OF CALIFORNIA,  
COUNTY OF SAN FRANCISCO, NO.  
CUD24673910**

ECF 13

Before the Court is the Application by Plaintiff DS HOUSING CCCRR-01, LP, for an Order Remanding Action or Shortening Time For Hearing on Motion to Remand Action to State Court filed May 3, 2024. (ECF 13) Plaintiff has also scheduled a Motion to Remand this Action set for hearing on July 16, 2024. (ECF 12)

As noted in Defendant’s May 7, 2024, Opposition (ECF 14), Plaintiff’s Application is procedurally and substantively defective. Plaintiff’s Application is therefore denied, without prejudice, as to the substantive Motion to Remand.

The hearing scheduled for **July 16, 2024 is hereby vacated.**

For the reasons noted below, the Court *sua sponte* **REMANDS** this action to state court for lack of subject matter jurisdiction.

**I. BACKGROUND**

The action before the Court is for an unlawful detainer based on non-payment of rent. Defendant’s removal was close to *two months* after Plaintiff served the Defendant with the complaint. More importantly, the Notice for Removal was filed on April 29, 2024, four court days prior to the scheduled trial set for Monday, May 6, 2024.

Finally, the amount of the controversy ranges from \$3,506.56 to \$4,223.23, absent costs

1 and attorney fees.

2 **II. LEGAL STANDARD**

3 “Federal courts are courts of limited jurisdiction.” *Kokkonen v. Guardian Life Ins. Co. of*  
4 *Am.*, 511 U.S. 375, 377 (1994). “Subject matter jurisdiction ‘can never be forfeited or waived’  
5 and federal courts have a continuing ‘independent obligation to determine whether subject-matter  
6 jurisdiction exists.’” *Leeson v. Transamerica Disability Income Plan*, 671 F.3d 969, 975, n.12  
7 (9th Cir. 2012) (internal citations omitted). “The objection that a federal court lacks subject-  
8 matter jurisdiction, *see* Fed. Rule Civ. Proc. 12(b)(1), may be raised by a party, or by a court on its  
9 own initiative, at any stage in the litigation, even after trial and the entry of judgment.” *Arbaugh*  
10 *v. Y&H Corp.*, 546 U.S. 500, 506 (2006).

11 The party seeking removal bears the burden of establishing federal jurisdiction. *Provincial*  
12 *Gov’t of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1087 (9th Cir. 2009). Where the  
13 complaint does not specify the amount in controversy and it is unclear whether the plaintiff is  
14 seeking more than the jurisdictional minimum, “the defendant bears the burden of actually proving  
15 the facts to support jurisdiction, including the jurisdictional amount” by a preponderance of the  
16 evidence. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-67 (9th Cir. 1992). “The removal statute is  
17 strictly construed, and any doubt about the right of removal requires resolution in favor of  
18 remand.” *Moore-Thomas v. Alaska Airlines, Inc.*, 553 F.3d 1241, 1244 (9th Cir. 2009); 28 U.S.C.  
19 § 1447(c) (“If at any time before final judgment it appears that the district court lacks subject  
20 matter jurisdiction, the case shall be remanded.”).

21 The request for remand is untimely, the amount in controversy is below the jurisdictional  
22 threshold, and the subject matter is solely based upon state law.

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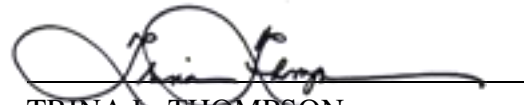
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**III. CONCLUSION**

Based on the foregoing, the Court finds that Defendant, Jessy Exum and Does 1-5, inclusive, have failed to establish subject matter jurisdiction and remands the case to state court forthwith.

**IT IS SO ORDERED.**

Dated: May 4, 2024



TRINA L. THOMPSON  
United States District Judge