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CLERK OF DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY:  DEPUTY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DEUTSCHE BANK NATIONAL TRUST  
COMPANY AS TRUSTEE FOR DOWNEY  
2004-AR2,  
  
Plaintiff,  
  
vs.  
  
MARIA L. ROS, an individual, DAVID  
CRUZ, an individual, and Does 1 through 10,  
  
Defendants.

CASE NO. 12-CV-01981 BEN (WVG)  
**ORDER GRANTING PLAINTIFF'S  
EX PARTE MOTION TO  
REMAND AND DENYING  
DEFENDANTS' MOTION TO  
CONSOLIDATE CASES**  
  
[ECF Nos. 2, 3]

On August 9, 2012, Defendants removed this unlawful detainer action to federal court. ECF No. 1. Four days later, Defendants filed a motion to consolidate this case with a different case involving the same property, *Ros v. Deutsche Bank Nat'l Trust Co.*, Case No. 3:12-cv-01929-BEN-WVG. ECF No. 2. Defendants assert that the Court has jurisdiction over this matter because the related cause of action involves a federal question. Plaintiff has filed an *ex parte* motion to remand the case to state court based on lack of jurisdiction. ECF No. 3.

“Only state-court actions 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). “Absent diversity of citizenship, federal-question jurisdiction is required.” *Id.* “The presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s

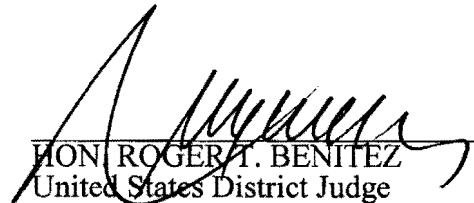
1 properly pleaded complaint.” *Id.*

2 The only claim for relief in this case is a state claim. *See* ECF No. 1-3. Accordingly, the Court  
3 lacks subject matter jurisdiction. To the extent Defendants’ argument can be construed as a request  
4 for this Court to assert supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a), it is unpersuasive.  
5 *Wescom Credit Union v. Dudley*, No. CV 10-8203, 2010 WL 4916578, at \*3 (C.D. Cal. Nov. 22, 2010)  
6 (noting that the supplemental jurisdiction statute “does not authorize supplemental jurisdiction over  
7 free-standing state law claims that are related to a *separate* action over which the court has  
8 jurisdiction”).

9 Plaintiff’s motion to remand is **GRANTED**, and the case is **REMANDED** to state court.  
10 Defendants’ motion to consolidate is **DENIED** as moot.

11 **IT IS SO ORDERED.**

12 DATED: October 8, 2012

  
HON. ROGER T. BENITEZ  
United States District Judge

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