

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

LIENA D. NGUYEN and/or Its
Assigners and/or Assignees in Interest,

Plaintiff,

vs.

DAVIS COOK, RHONDA COOK,
and DOES 1 through 10,

Defendants.

CASE NO. 15-cv-0445 (JM) JLB

ORDER (1) REMANDING
ACTION TO STATE COURT
AND (2) DENYING MOTION TO
PROCEED IN FORMA PAUPERIS

For the reasons set forth below, the court remands this action to state court and denies Defendant Rhonda Cook's motion for leave to proceed *in forma pauperis*.

On November 18, 2014, Plaintiff Nguyen commenced this action in San Diego Superior Court to remove Defendants from property Nguyen purchased from Chase Bank in September 2014. (Doc. No. 1, Exh. A.) The sole claim is for unlawful detainer, and the complaint states that the amount in controversy does not exceed \$10,000. (Id. at 1.)

On February 27, 2015, Defendant Rhonda Cook filed a *pro se* notice of removal to this court, (Doc. No. 1), and an application to proceed *in forma pauperis*, (Doc. No. 2). She contends that this court has subject-matter jurisdiction because her answer asserts that the notice to vacate the premises failed to comply with the

1 Protecting Tenants at Foreclosure Act, 12 U.S.C. § 5220. (Doc. No. 1 ¶ 10.)

2 Federal courts are courts of limited jurisdiction, and there is a presumption
3 that federal courts lack jurisdiction. See Kikkonen v. Guardian Life Ins. Co. of
4 Am., 511 U.S. 375, 377 (1994). The party seeking to invoke federal jurisdiction has
5 the burden of establishing the basis for federal jurisdiction. See id. Federal district
6 courts have original jurisdiction “of all civil actions arising under the . . . laws . . .
7 of the United States,” 28 U.S.C. § 1331, and “of all civil actions where the matter
8 in controversy exceeds . . . \$75,000 and is between . . . citizens of different States,”
9 28 U.S.C. § 1332(a).

10 A defendant may remove an action to federal court only if the plaintiff could
11 have initially filed the complaint in federal court. See 28 U.S.C. § 1441(a). If
12 removal was improper and the federal court lacks jurisdiction, the federal court must
13 remand the case to state court. See 28 U.S.C. § 1447(c). The court is obligated to
14 confirm its jurisdiction *sua sponte*, even if jurisdictional defects are not raised by
15 the parties. See United Investors Life Ins. Co. v. Waddell & Reed Inc., 360 F.3d
16 960, 967 (9th Cir. 2004).

17 “The presence or absence of federal-question jurisdiction is governed by the
18 ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only
19 when a federal question is presented on the face of the plaintiff’s properly pleaded
20 complaint.” Caterpillar Inc. v. Williams, 482 U.S. 386, 392 (1987). This means
21 that “a case may *not* be removed to federal court on the basis of a federal defense.”
22 Id. at 393.

23 In this case, the complaint presents only a state-law claim for unlawful
24 detainer and it limits the amount in controversy to \$10,000. Consequently, the
25 complaint presents no basis for federal jurisdiction under either § 1331 or § 1332.
26 Defendant Cook’s defense under federal law does not change that assessment.


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1 Accordingly, the court REMANDS this action to San Diego Superior Court
2 and denies Defendant Cook's motion for leave to proceed *in forma pauperis* (Doc.
3 No. 2) because it is moot.

4 IT IS SO ORDERED.

5 DATED: March 2, 2015

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7 Hon. Jeffrey T. Miller
8 United States District Judge
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