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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CAH 2014-2 BORROWER, LLC,  
Plaintiff,  
v.  
ALONSO SALAZAR, et al.,  
Defendants.

Case No.: 16CV1254 BEN (BGS)

**ORDER:**  
**(1) GRANTING MOTION TO PROCEED IFP**  
**(2) REMANDING CASE TO STATE COURT**

On March 18, 2016, Plaintiff CAH-2014-2 Borrower, LLC filed an unlawful detainer action in state court against Defendants Alonso Salazar and Lorena Salas. On May 26, 2016, Defendant Salazar removed the action to this Court. Instead of paying the filing fee, Salazar moved to proceed in forma pauperis (“IFP”). For the reasons set forth below, the motion to proceed IFP is **GRANTED** and the case is **REMANDED** to state court.

**DISCUSSION**

**I. Motion to Proceed IFP**

All parties instituting any civil action in a district court must pay a filing fee. 28 U.S.C. § 1914(a). An action may proceed despite a party’s failure to prepay the entire fee only if the party is granted leave to proceed IFP pursuant to 28 U.S.C. § 1915(a). Under 28 U.S.C. § 1915(a)(1),

1 [A]ny court of the United States may authorize the  
2 commencement, prosecution or defense of any suit, action or  
3 proceeding . . . without prepayment of fees or security therefor,  
4 by a person who submits an affidavit that includes a statement  
5 of all assets such [person] possesses that the person is unable to  
6 pay such fees or give security therefor.

7 The information provided in Salazar’s affidavit reflects an inability to pay the fee  
8 to pursue this action. The Motion to Proceed IFP is **GRANTED**.

9 **II. Sua Sponte Screening**

10 An IFP complaint is subject to mandatory screening. Pursuant to 28 U.S.C. §  
11 1915(e)(2)(B), the Court must dismiss any complaint if at any time the Court determines  
12 that it is “frivolous or malicious,” “fails to state a claim on which relief may be granted,”  
13 or “seeks monetary relief against a defendant who is immune from such relief.” The sua  
14 sponte screening is mandatory. See *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000)  
15 (en banc); see also *Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001) (per curiam)  
16 (“[T]he provisions of 28 U.S.C. § 1915(e)(2)(B) are not limited to prisoners.”).

17 Upon the Court’s screening of the Notice of Removal and Complaint, it is apparent  
18 that this Court lacks subject-matter jurisdiction. The allegations of the Complaint arise  
19 solely under state law. It is an unlawful detainer action. Defendant cites the Fair Debt  
20 Collection Practices Act in the Notice of Removal, however this is not a claim asserted in  
21 the Complaint.<sup>1</sup> This Court lacks federal question jurisdiction. 28 U.S.C. § 1331.

22 In addition, the amount in controversy is less than \$75,000, precluding diversity as  
23 a basis for jurisdiction even if diversity of citizenship existed. 28 U.S.C. § 1332  
24 (requiring that the amount in controversy exceed \$75,000). The Complaint indicates that

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25 <sup>1</sup> Assuming it can even be asserted in an unlawful detainer action, this is, at best, a federal  
26 defense. “A case may not be removed to the federal court on the basis of a federal  
27 defense.” *ARCO Env’tl. Remediation, LLC v. Dep’t of Health and Env’tl. Quality of*  
*Mont.*, 213 F.3d 1108, 1113 (9th Cir. 2000).

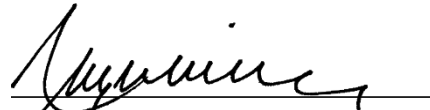
1 the amount demanded is \$10,000 or less.

2 When a case has been removed, the Court is obligated to remand it if the Court  
3 finds it lacks subject-matter jurisdiction. “If at any time before final judgment it appears  
4 that the district court lacks subject-matter jurisdiction, the case shall be remanded.” 28  
5 U.S.C. 1447(c). Because the Court lacks subject matter jurisdiction, the case is

6 **REMANDED.**

7 **IT IS SO ORDERED.**

8 Dated: June 6, 2016

9   
10 Hon. Roger T. Benitez  
11 United States District Judge  
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