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

HSBC BANK USA, NATIONAL
ASSOCIATION, AS TRUSTEE FOR
THE HOLDERS OF THE DEUTSCHE
ALT-A SECURITIES, INC.
MORTGAGE LOAN TRUST,
MORTGAGE PASS-THROUGH
CERTIFICATES SERIES 2007-OA4,

Plaintiff,

vs.

BAHRAM MANOUCHEHRI, et al.,

Defendants.

CASE NO. 17cv149-LAB (BGS)

ORDER OF REMAND

Last year, HSBC Bank sued Bahram Manouchehri for unlawful detainer in California state court. A year later, Manouchehri removed the case to this Court claiming the unlawful detainer action implicated a substantial federal issue—namely, Manouchehri’s defense that the Bank didn’t have valid title. Because the Court lacks jurisdiction, the action is remanded.

* * *

When a defendant removes a case from state court, and “it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447. Removal based on federal question jurisdiction is governed by the “well-pleaded complaint” rule: a federal question must be “presented on the face of a plaintiff’s properly pleaded complaint.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). Manouchehri removed

1 the case after HSBC Bank sued him under a single state law claim—unlawful detainer. Since
2 the complaint doesn't raise a federal question, the Court lacks jurisdiction.¹

3 Manouchehri argues that federal law is inseparable from the unlawful detainer action.
4 But the claim isn't based on any federal law—Manouchehri's defense is, and that's
5 insufficient. *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009) ("Federal jurisdiction cannot
6 be predicated on an actual or anticipated defense"). While federal question jurisdiction may
7 exist over some state law claims that necessarily raise disputed and substantial federal
8 issues, *Grable & Sons Metal Products, Inc. v. Darue Engineering & Mfg.*, 545 U.S. 308, 314
9 (2005), this isn't one of them. See, e.g., *Indymac Federal Bank, F.S.B. v. Ocampo*, 2010
10 WL 234828, at *2 (C.D. Cal. Jan. 13, 2010) (no jurisdiction over unlawful detainer claim).²

11 The Court has discretion to award expenses when "the removing party lacked an
12 objectively reasonable basis for seeking removal." *Martin v. Franklin Capital Corp.*, 546 U.S.
13 132, 141 (2005); 28 U.S.C. § 1447(c). The law is straightforward on this one—unlawful
14 detainer actions don't arise under federal law. Manouchehri didn't have a reasonable basis
15 for removal. *New Homes Mortg. Inc. V. Pierro*, 2009 WL 1456617, at *2 (C.D. Cal. May 22,
16 2009) (awarding fees for improperly removed unlawful detainer action). Worse, he removed
17 this case nearly a year after it was initially filed without any explanation for the delay. 28
18 U.S.C. § 1446(b)(1).

19 The Bank seeks about \$1,000 for five hours of work on the motion to remand and for
20 "the time to appear and attend the hearing." No hearing was held. The Bank's only work
21 product is a seven page motion for remand based on elementary rules of federal jurisdiction.
22 And a good portion of the motion was spent arguing for remand based on Manouchehri's

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24 ¹ Manouchehri filed a separate action in this Court alleging federal violations related to the
25 unlawful detainer action. He wants the Court to consolidate that action with this improperly
26 removed one. Since the Court lacks jurisdiction over the unlawful detainer action, that's not
a valid move. *Wells Fargo Bank N.A. v. Robinson*, 2014 WL 4748471, at *4 (N.D. Cal. Sept.
23, 2014) ("consolidation will not cure the jurisdictional defect in this case").

27 ² Manouchehri suggests remand would unfairly force him to litigate in federal and state court.
28 Not so. A state court of general jurisdiction is fully equipped to handle his claims and,
specifically, has several options for dealing with the concerns he raises. See *Asuncion v.*
Superior Court, 108 Cal. App. 3d 141, 146 (Ct. App. 1980). Manouchehri offers no
explanation why he hasn't pursued the remedies outlined in *Asuncion*.

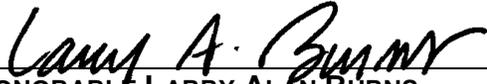
1 untimely removal, despite the fact that the Bank's remand motion was untimely too. 28
2 U.S.C. § 1447(c). The Court awards the Bank \$645 total based on three hours of work at
3 \$215 an hour. See *Ke Kailani Partners, LLC v. Ke Kailani Development, LLC*, 2013 WL
4 6665460, at *1 (D. Haw. Dec. 18, 2013).

5 * * *

6 Since the Court lacks jurisdiction, the case is remanded to the Superior Court of
7 California, County of San Diego. And because Manouchehri had no reasonable basis for
8 removal, the Court awards the Bank \$645 in attorney's fees.

9 **IT IS SO ORDERED.**

10 Dated: July 7, 2017

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13 HONORABLE LARRY ALAN BURNS
14 United States District Judge
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