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

THREE ARCH CAPITAL
MANAGEMENT LLC,

Plaintiff,

CASE NO. 17cv426-GPC(JMA)

**ORDER *SUA SPONTE*
REMANDING ACTION TO STATE
COURT**

v.

BRENDA M LAREYBI, PARCHIER
LAREYBI & MARCEL LAMBARRI,

Defendants.

On March 2, 2017, Marcel Lambarri, proceeding pro se, filed a notice of removal of this unlawful detainer action from the Superior Court of the State of California for San Diego County. Having reviewed the notice of removal, the Court finds it does not have subject matter jurisdiction over this action. Accordingly, the Court *sua sponte* REMANDS the action to state court.

Discussion

Any action brought in state court may be “removed by the defendant or the defendants” to the district court. See 28 U.S.C. § 1441; see also 28 U.S.C. § 1446 (“A defendant or defendants desiring to remove any civil action from a State court shall filed . . . a notice of removal”)

1 As an initial matter, Marcel Lambarri (“Lambarri”), though he may be a tenant,
2 is not a named defendant in the state court action. Therefore, he cannot remove the
3 action to this Court. But even if Lambarri was a proper defendant, he has not
4 demonstrated that this Court has federal subject matter jurisdiction over the case.

5 It is well-established that a federal court cannot reach the merits of any dispute
6 until it confirms that it retains subject matter jurisdiction to adjudicate the issues
7 presented. See Steel Co. v. Citizens for a Better Environ., 523 U.S. 83, 94-95 (1998).
8 Accordingly, federal courts are under a continuing duty to confirm their jurisdictional
9 power and are “obliged to inquire sua sponte whenever a doubt arises as to [its]
10 existence” Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle, 429 U.S. 274, 278
11 (1977) (citations omitted). The federal court is one of limited jurisdiction.
12 Lowdermilk v. U.S. Bank Nat’l Ass’n, 479 F.3d 994, 997 (9th Cir. 2007). It possesses
13 only that power authorized by the Constitution or a statute. See Bender v. Williamsport
14 Area Sch. Dist., 475 U.S. 534, 541 (1986).

15 Removal jurisdiction is governed by 28 U.S.C. § 1441 *et seq.* A state court
16 action can only be removed if it could have originally been brought in federal court.
17 Caterpillar, Inc. v. Williams, 482 U.S. 386, 392, 107 (1987); Duncan v. Stuetzle, 76
18 F.3d 1480, 1485 (9th Cir.1996). “The removal statute is strictly construed against
19 removal jurisdiction.” Provincial Gov’t of Marinduque v. Placer Dome, Inc., 582 F.3d
20 1083, 1087 (9th Cir. 2009) (citing Syngenta Crop Prot., Inc. v. Henson, 537 U.S. 28,
21 32 (2002)). Thus, for an action to be removed on the basis of federal question
22 jurisdiction, the complaint must establish either that federal law creates the cause of
23 action or that the plaintiff’s right to relief necessarily depends on the resolution of
24 substantial questions of federal law. Franchise Tax Board of Cal. v. Construction
25 Laborers Vacation Trust for Southern Cal., 463 U.S. 1, 10–11 (1983). Alternatively,
26 a federal court may have diversity jurisdiction over an action involving citizens of
27 different states where the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332.

28 The presence or absence of federal question jurisdiction “is governed by the

1 ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when
2 a federal question is presented on the face of plaintiff’s properly pleaded complaint.”
3 Caterpillar, Inc. v. Williams, 482 U.S. 386, 392 (1987). “The burden of establishing
4 federal jurisdiction is on the party seeking removal.” Emrich v. Touche Ross & Co.,
5 846 F.2d 1190, 1195 (9th Cir. 1988). “Federal jurisdiction must be rejected if there is
6 any doubt as to the right of removal in the first instance.” Gaus v. Miles, Inc., 980 F.2d
7 564, 566 (9th Cir. 1992).

8 A review of the state court complaint in this case shows that Plaintiff Three Arch
9 Capital Management, LLC alleges a single cause of action for unlawful detainer under
10 California state law. (Dkt. No. 1-3 at 5.) In the notice of removal, Lambarri alleges
11 that the Court has jurisdiction pursuant to a federal question because it is related to a
12 pending action in this Court, Case No. 17cv0003, where the original owner of the
13 property at issue is challenging the foreclosure of her residence pursuant to the Dodd-
14 Frank Wall Street Reform and Consumer Protection Act, the Real Estate Settlement
15 Procedures Act and the Truth in Lending Act. (Dkt. No. 1 at 2-3; see also Case No.
16 17cv0003, Dkt. No. 1.)

17 Lambarri’s reliance to another related case in this Court to support subject matter
18 jurisdiction suggests that he may be relying on the court’s supplemental jurisdiction;
19 however, a “removal petition . . . may not base subject-matter jurisdiction on the
20 supplemental jurisdiction statute, even if the action which a defendant seeks to remove
21 is related to another action over which the federal district court already has
22 subject-matter jurisdiction.” Pacific Bell v. Covad Commc’ns Co., No. C 99-1491 SI,
23 1999 WL 390840, at *3 (N.D. Cal. June 8, 1999) (quoting Ahearn v. Charter Twp. of
24 Bloomfield, 100 F.3d 451, 456 (6th Cir. 1996)). Therefore, Lambarri’s reason for
25 removal cannot support federal subject matter jurisdiction. See Sato v. Wachovia
26 Mort., FSB, No. 11cv810 EJD(PSG), 2011 WL 2784567, at *12 (N.D. Cal. July 13,
27 2011) (“any relationship between the unlawful detainer action and the wrongful
28 foreclosure case is irrelevant for purposes of removal.”); Waadhwa v. Aurora Loan

1 Servs., LLC, No. 10cv3361 WBS DAD, 2011 WL 308416, at *1 (E.D. Cal. Jan. 27,
2 2011) (unlawful detainer action does not raise a federal question even though it was
3 filed because of a related federal case concerning the loan and foreclosure).

4 Lambarri's assertion of federal subject matter jurisdiction is without merit and
5 it does not appear that jurisdiction rests on diversity of citizenship as the amount in
6 controversy in the state court complaint does not exceed \$10,000. Lambarri has not
7 established a basis for this Court's subject matter jurisdiction and the Court must
8 remand the case. 28 U.S.C. § 1447(c).

9 **Conclusion**

10 Based on the above, the Court *sua sponte* REMANDS the action to the Superior
11 Court of the State of California for San Diego County. The Court also DENIES
12 Plaintiff's motion to dismiss and Lambarri's emergency motion for writ as moot.

13 IT IS SO ORDERED.

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15 DATED: April 4, 2017

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17 HON. GONZALO P. CURIEL
18 United States District Judge
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