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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAY SADRIEH TTEE JAY JALAL
SADRIETH & SADRIETH
REVOCABLE TRUST,

Plaintiff,

v.

FARRAH PIRAHANCI-NAZEMI,

Defendant.

Case No.: 17-CV-00769 AJB-WVG

**(1) SUA SPONTE REMANDING
ACTION TO STATE COURT FOR
LACK OF SUBJECT MATTER
JURISDICTION (Doc. No. 1); AND**

**(2) DENYING MOTION TO
PROCEED IN FORMA PAUPERIS
AS MOOT (Doc. No. 2)**

On April 17, 2017, Defendant Farrah Pirahanci-Nazemi (“Removing Defendant”), acting *pro se*, filed a notice of removal of an unlawful detainer action initiated in San Diego Superior Court by Plaintiff Jay Sadrieh TTEE Jay Jalal Sadrieth & Sadrieth Revocable Trust (“Plaintiff”), (Doc. No. 1), and an application to proceed *in forma pauperis*. (Doc. No. 2.) For the reasons set forth below, the Court *sua sponte* **REMANDS** the action for lack of subject matter jurisdiction, and **DENIES AS MOOT** Removing Defendant’s application to proceed *in forma pauperis*.

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1 **LEGAL STANDARD**

2 Federal courts are courts of limited jurisdiction, having subject matter jurisdiction
3 only over matters authorized by the Constitution and Congress. *See Kokkonen v. Guardian*
4 *Life Ins. Co.*, 511 U.S. 375, 377 (1994). A defendant may remove a civil action to federal
5 court only if the district court would have original jurisdiction over the matter. 28 U.S.C.
6 § 1441(a). “[R]emoval statutes are strictly construed against removal.” *Gaus v. Miles, Inc.*,
7 980 F.2d 564, 566 (9th Cir. 1992). A defendant seeking removal has the burden to establish
8 that removal is proper and any doubt is resolved against removability. *Luther v.*
9 *Countrywide Home Loans Servicing LP*, 533 F.3d 1031, 1034 (9th Cir. 2008).

10 Moreover, “[f]ederal courts are under an independent obligation to examine their
11 own jurisdiction[.]” *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 231 (1990).
12 Accordingly, “[i]f at any time before final judgment it appears that the district court lacks
13 subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447(c); *see also* Fed.
14 R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter
15 jurisdiction, the court must dismiss the action.”).

16 **DISCUSSION**

17 Removing Defendant alleges that the Court has subject matter jurisdiction over this
18 matter pursuant to 28 U.S.C. § 1441. (Doc. No. 1 at 2.)¹ Federal question jurisdiction exists
19 over “all civil actions arising under the Constitution, laws, or treaties of the United States.”
20 28 U.S.C. § 1331; *see also* U.S. Const. art. III, § 2, cl. 1. Jurisdiction in federal question
21 cases is “governed by the ‘well-pleaded complaint rule,’ which provides that federal
22 [question] jurisdiction exists only when a federal question is presented on the face of the
23 plaintiff’s properly pleaded complaint.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392–
24 93 (1987). Diversity jurisdiction exists where there is complete diversity among opposing
25 parties and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332(a).

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¹ Pinpoint cites refer to the CM/ECF page numbers and not the automatically generated page numbers
on the original document.

1 The Complaint attached as Exhibit A to the notice of removal affirmatively shows
2 that the Complaint alleges only a single claim for unlawful detainer, which is a California
3 state law cause of action. (*See Generally* Doc. No. 1-2.) Thus, the Court finds that
4 Plaintiff’s Complaint does not “necessarily raise a stated federal issue, actually disputed
5 and substantial,” which this Court “may entertain without disturbing any congressionally
6 approved balance of federal and state judicial responsibilities.” *See Grable & Sons Metal*
7 *Prods., Inc. v. Darue Eng’g & Mfg.*, 545 U.S. 308, 314 (2005); *see also Aurora Loan*
8 *Servs., LLC v. Montoya*, No. 2:11-cv-2485- MCE-KJN-PS, 2011 WL 5508926, at *3 (E.D.
9 Cal. Nov. 9, 2011) (“[P]laintiff filed its Complaint in Superior Court asserting a single
10 claim for unlawful detainer premised solely on California law. Because a claim for
11 unlawful detainer does not by itself present a federal question or necessarily turn on the
12 construction of federal law, no basis for federal question jurisdiction appears on the face
13 of the Complaint.”); *Wells Fargo Bank v. Lapeen*, No. C 11-01932 LB, 2011 WL 2194117,
14 at *3 (N.D. Cal. June 6, 2011) (“An unlawful detainer action, on its face, does not arise
15 under federal law but is purely a creature of California law.”) (citing *Wescom Credit Union*
16 *v. Dudley*, No. CV 10-8203 GAF (SSx), 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22,
17 2010)). Accordingly, the Court finds Plaintiff’s Complaint does not present a federal
18 question.

19 Moreover, Removing Defendant does not claim that removal is appropriate based
20 on diversity jurisdiction. The Court notes however that both parties are residents of San
21 Diego, California. (Doc. No. 1-2 at 3.) Additionally, the Complaint states on its face that
22 the demand for damages includes rent in the amount of \$5200.00 beginning on March 1,
23 2017, and attorney fees. (*Id.* at 5.) As of the date of this Order, that only amounts to less
24 than \$10,000.00, which is far less than the \$75,000 needed to qualify for diversity
25 jurisdiction. Consequently, as the Complaint does not present a federal question, and
26 diversity jurisdiction is not present, the Court lacks subject matter jurisdiction.

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1 CONCLUSION

2 For the reasons set forth above, the Court *sua sponte* **REMANDS** the action to San
3 Diego Superior Court for lack of subject matter jurisdiction. Accordingly, Removing
4 Defendant's motion to proceed *in forma pauperis* is **DENIED AS MOOT**.

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6 **IT IS SO ORDERED.**

7 Dated: April 25, 2017

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9 Hon. Anthony J. Battaglia
United States District Judge

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