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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SAGE HOME MORTGAGE, LLC,
Plaintiff,
v.
JAMES R. ROOHAN; and Does 1-10,
inclusive,
Defendants.

Case No.: 17-cv-1409-AJB-JMA

ORDER:

(1) SUA SPONTE REMANDING ACTION TO STATE COURT FOR LACK OF SUBJECT MATTER JURISDICTION;

(2) DENYING DEFENDANT’S MOTION TO PROCEED IN FORMA PAUPERIS AS MOOT; AND

(3) DENYING PLAINTIFF’S MOTION TO REMAND AS MOOT (Doc. Nos. 2, 3)

On July 12, 2017, Defendant James R. Roohan (“Removing Defendant”), acting *pro se*, filed a notice of removal of an unlawful detainer action filed in San Diego Superior Court, (Doc. No. 1), and a motion to proceed *in forma pauperis* (“IFP”), (Doc. No. 2). Subsequently, Plaintiff Sage Home Mortgage, LLC (“Plaintiff”) filed a motion to remand. (Doc. No. 3.) For the reasons set forth below, the Court *sua sponte* **REMANDS** the action for lack of subject matter jurisdiction, (Doc. No. 1), **DENIES AS MOOT** Removing

1 Defendant’s application to proceed IFP, (Doc. No. 2), and **DENIES AS MOOT** Plaintiff’s
2 motion to remand, (Doc. No. 3).

3 BACKGROUND

4 The instant matter finds itself in federal court for the second time, having been
5 removed and remanded once before. The underlying facts remain the same: on December
6 19, 2016, Plaintiff filed an unlawful detainer suit in the Superior Court of California,
7 County of San Diego against Defendants James R. Roohan and Does 1-10 (collectively
8 referred to as “Defendants”). (Doc. No. 1 at 3–6.) Plaintiff alleges that on November 28,
9 2016, it purchased the premises located at 485 La Costa Avenue, Encinitas, CA 92024 in
10 a non-judicial foreclosure sale under California law. (*Id.* at 4.) In spite of this purchase,
11 Plaintiff alleges that Defendants have continued to possess the property and thus it seeks
12 damages including restitution, unpaid rent, and attorney’s fees and costs. (*Id.* at 4–6.)

13 On February 10, 2017, Removing Defendant filed his first notice of removal based
14 on federal question jurisdiction in this Court—17-cv-00272. (Doc. No. 3-1 at 3.) However,
15 finding that the complaint relied entirely on state law, and that the removal notice offered
16 no facts regarding a substantial federal question nor a subject matter jurisdiction issue on
17 the basis of citizenship, Judge John A. Houston *sua sponte* remanded the case back to state
18 court. (*Id.*; Doc. No. 3-8.) On July 12, 2017, Removing Defendant filed his second notice
19 of removal that sought to remove the same unlawful detainer action.¹ (Doc. No. 1.)

20 LEGAL STANDARD

21 Federal courts are of limited jurisdiction, having subject matter jurisdiction only over
22 matters authorized by the Constitution and Congress. *Kokkonen v. Guardian Life Ins. Co.*
23 *of Am.*, 511 U.S. 375, 377 (1994). A defendant may remove a civil action from state court
24 to federal court only if the district court could have original jurisdiction over the matter. 28

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27 ¹ The Court notes that Removing Defendant puzzlingly selected “U.S. Government
28 Defendant” on the civil cover sheet and cited 23 U.S.C. § 1345 as the grounds for removal.
(Doc. No. 1-1.)

1 U.S.C. § 1441(a). “Removal statutes are strictly construed against removal.” *Luther v.*
2 *Countrywide Home Loans Serv., L.P.*, 533 F.3d 1031, 1034 (9th Cir. 2008). There is a
3 “strong presumption” against removal jurisdiction, and the party seeking removal always
4 has the burden of establishing that removal is proper. *Gaus v. Miles, Inc.*, 980 F.2d 564,
5 566 (9th Cir. 1992). If there is any doubt as to the propriety of removal, federal jurisdiction
6 must be rejected. *Id.* at 567. At any time during court proceedings, a district court may
7 remand a case to state court if the district court lacks subject matter jurisdiction over the
8 case. 28 U.S.C. § 1447(c).

9 DISCUSSION

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

19 Despite the clear and straightforward order by Judge Houston that was filed in
20 February of this year, Removing Defendant is seeking to remove the same action to the
21 district court again. However, Removing Defendant’s second attempt to bring his case to
22 federal court is not only frivolous, but wholly flawed. Here, Removing Defendant attaches
23 to his notice a short statement of his allegations regarding the lending history behind the
24 property, complaints against different people involved in the sale of the property, and the
25 instant action for unlawful detainer. (Doc. No. 1 at 9.) However, the Court again highlights
26 that the complaint affirmatively shows that the only allegation is for a single claim for
27 unlawful detainer, which is a California state law cause of action. (Doc. No. 1 at 3 (*see*
28 *Wells Fargo Bank v. Lapeen*, No. C 11-01932 LB, 2011 WL 2194117, at *3 (N.D. Cal.

1 June 6, 2011) (“An unlawful detainer action, on its face, does not arise under federal law
2 but is purely a creature of California law.”) (citing *Wescom Credit Union v. Dudley*, No.
3 CV 10-8203 GAF (SSx), 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010))).

4 The Court also notes that Removing Defendant makes no claims that removal is
5 appropriate based on diversity jurisdiction. Looking at the complaint, the Court finds that
6 Plaintiff and Removing Defendant are both citizens of California. (Doc. No. 1 at 3.) Thus,
7 the complete diversity between the parties that is needed for a finding of diversity
8 jurisdiction is lacking.

9 Based upon the foregoing, the Court finds that the complaint does not “necessarily
10 raise a stated federal issue, actually disputed and substantial,” which this Court “may
11 entertain without disturbing any congressionally approved balance of federal and state
12 judicial responsibilities.” *Grable & Sons Metal Prods., Inc. v. Darue Eng’g & Mfg.*, 545
13 U.S. 308, 314 (2005); *see also Aurora Loan Servs., LLC v. Montoya*, No. 2:11-cv-2485-
14 MCE-KJN-PS, 2011 WL 5508926, at *3 (E.D. Cal. Nov. 9, 2011) (“[P]laintiff filed its
15 Complaint in Superior Court asserting a single claim for unlawful detainer premised solely
16 on California law. Because a claim for unlawful detainer does not by itself present a federal
17 question or necessarily turn on the construction of federal law, no basis for federal question
18 jurisdiction appears on the face of the Complaint.”). Consequently, as the complaint in the
19 instant action does not present a federal question and diversity jurisdiction is not present,
20 the Court lacks subject matter jurisdiction.

21 On a final note, Plaintiff has asked the Court to sanction Removing Defendant for
22 allegedly abusing the court system by removing his case a second time for the purpose of
23 increasing costs on Plaintiff and delaying trial. (Doc. No. 3-1 at 9.) After reviewing the
24 pleadings, the Court has reason to believe that Removing Defendant has indeed been using
25 notices of removal and stays of action to unduly delay court proceedings and frustrate
26 judicial economy. (*See generally* Doc. Nos. 1, 3.) However, the Court does not deem
27 sanctions to be appropriate at this time. Nevertheless, the Court warns Removing
28 Defendant that if he chooses to make any further filings in the district court regarding the


1 instant matter, the Court will initiate proceedings to hold him in contempt of court for
2 violation of this order, subjecting Removing Defendant to remain in custody as well as
3 fines.

4 **CONCLUSION**

5 Based on the foregoing, **IT IS HEREBY ORDERED** that:

- 6 1. The Court *sua sponte* **REMANDS** the action to San Diego Superior Court for
7 lack of subject matter jurisdiction; and
8 2. Defendant's motion for leave to proceed *in forma pauperis*, (Doc. No. 2), and
9 Plaintiff's motion to remand, (Doc. No. 3), are **DENIED AS MOOT**.

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11 Dated: July 27, 2017

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13 Hon. Anthony J. Battaglia
14 United States District Judge
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