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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 37-02017-00015952-CL-UD-CTL

11 WELLS FARGO BANK, N.A.,
12 Plaintiff,
13 v.
14 HALL, et. al.,
15 Defendant.

Case No.: 17-cv-1528-BTM-NLS

ORDER REMANDING CASE

16
17 On July 27, 2017, James Hall and Mary Hall (“Defendants”), defendants in
18 an unlawful detainer action originally filed in the Superior Court of California,
19 County of San Diego, filed a Notice of Removal removing the action to this Court.
20 (Notice of Removal, ECF No. 1.) The Court finds that Defendants’ Notice of
21 Removal fails to establish that this Court has subject matter jurisdiction over the
22 removed action, and accordingly **REMANDS** the action to state court.

23 Subject to exceptions not applicable here, “any civil action brought in a
24 State court of which the district courts of the United States have original
25 jurisdiction, may be removed by the defendant or the defendants, to the district
26 court of the United States for the district court and division embracing the place
27 where such action is pending.” 28 U.S.C. § 1441(a). The removal statute is
28 strictly construed against removal jurisdiction, and the removing defendant bears

1 the burden of establishing federal jurisdiction. *California ex rel. Lockyer v.*
2 *Dynegey, Inc.*, 375 F.3d 831, 838 (9th Cir. 2004).

3 “Congress has given the lower federal courts jurisdiction to hear, originally
4 or by removal from a state court, only those cases in which a well-pleaded
5 complaint establishes either that federal law creates the cause of action or that
6 the plaintiff’s right to relief necessarily depends on resolution of a substantial
7 question of federal law.” *Franchise Tax Bd. Of State of Calif. V. Constr. Laborers*
8 *Vacation Tr. for S. Calif.*, 463 U.S. 1, 27–28 (1983). Whether a case “arises
9 under” federal law thus turns on the nature of the claims asserted in plaintiff’s
10 complaint. *See id.* at 10 (“For better or worse . . . a defendant may not remove a
11 case to federal court unless the plaintiff’s complaint establishes that the case
12 ‘arises under’ federal law.”). “A federal defense, however, is ‘inadequate to
13 confer federal jurisdiction.’” *Dennis v. Hart*, 724 F.3d 1249, 1253 (9th Cir. 2013)
14 (quoting *Merrell Dow Pharm. Inc. v. Thompson*, 478 U.S. 804, 808 (1986)).

15 Here, Plaintiff filed a complaint asserting only a cause of action for unlawful
16 detainer under California state law. The complaint therefore does not state a
17 federal claim, nor does the asserted cause of action rest on federal law.
18 Defendants assert that a federal question exists because their demurrer depends
19 on the determination of their rights and Plaintiff’s duties under federal law.
20 However, the law is clear that federal defenses do not confer federal question
21 jurisdiction. *Dennis*, 724 F.3d at 1253.

22 The removing defendant bears the burden of establishing that removal is
23 proper, and the Court resolves all ambiguity in favor of remand to state court.
24 *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003)
25 (“Where doubt regarding the right to removal exists, a case should be remanded
26 to state court.”). Defendants have failed to establish this Court’s subject matter
27 jurisdiction over this action. Therefore, the Court **REMANDS** this action to the
28 Superior Court of California, County of San Diego.

1 Defendants also filed a motion for leave to proceed in forma pauperis.
2 Because the Court remands this action to state court, Defendants' motion is
3 **DENIED** as moot.

4 **IT IS SO ORDERED.**

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6 Dated: August 23, 2017



Barry Ted Moskowitz, Chief Judge
United States District Court

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