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7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA  
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10 FENTON MISSION VALLEY, LLC,  
11 Plaintiff,  
12 v.  
13 MIRANDA et al.,  
14 Defendants.

Case No.: 3:17-cv-01566-GPC-JLB

**ORDER SUA SPONTE REMANDING  
ACTION TO STATE COURT AND  
DISMISSING MOTIONS TO  
PROCEED IN FORMA PAUPERIS  
AS MOOT**

[ECF No. 1, 3-5]

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19 On August 4, 2017, Defendants Andres Miranda, Suzette Martinez, and Naomi  
20 Ramos (“Defendants”), proceeding *pro se*, filed a notice of removal of this unlawful  
21 detainer action from the Superior Court of the State of California for San Diego County.  
22 Based on the reasoning below, the Court *sua sponte* **REMANDS** the action to state court  
23 for lack of subject matter jurisdiction.

24 **DISCUSSION**

25 “Federal courts are courts of limited jurisdiction.” Kokkonen v. Guardian Life Ins.  
26 Co. of Am., 511 U.S. 375, 377 (1994). “It is to be presumed that a cause lies outside this  
27 limited jurisdiction, and the burden of establishing the contrary rests upon the party  
28 asserting jurisdiction.” Id. It is well-established that a federal court cannot reach the

1 merits of any dispute until it confirms that it retains subject matter jurisdiction to  
2 adjudicate the issues presented. Steel Co. v. Citizens for a Better Environ., 523 U.S. 83,  
3 94-95 (1988). Accordingly, federal courts are under a continuing duty to confirm their  
4 jurisdictional power and are “obliged to inquire sua sponte whenever a doubt arises as to  
5 [its] existence . . . .” Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle, 429 U.S. 274,  
6 278 (1977) (citations omitted).

7 Federal subject matter jurisdiction may be based on (1) federal question  
8 jurisdiction under 28 U.S.C. § 1331; and (2) diversity jurisdiction under 28 U.S.C.  
9 § 1332. Here, Defendants assert federal question jurisdiction. *See* Notice of Removal  
10 (“NTR”), Dkt. No. 1 at 2. For an action to be removed on the basis of federal question  
11 jurisdiction, the complaint must establish either that federal law creates the cause of  
12 action or that the plaintiff’s right to relief necessarily depends on the resolution of  
13 substantial questions of federal law. Franchise Tax Bd. of Cal. v. Constr. Laborers  
14 Vacation Trust for S. Cal., 463 U.S. 1, 10-11 (1983). The presence or absence of federal  
15 question jurisdiction “is governed by the ‘well-pleaded complaint rule,’ which provides  
16 that federal jurisdiction exists only when a federal question is presented on the face of  
17 plaintiff’s properly pleaded complaint.” Caterpillar Inc. v. Williams, 482 U.S. 386, 392  
18 (1987). It is well settled that a “case may not be removed to federal court on the basis of  
19 a federal defense . . . even if the defense is anticipated in the plaintiff’s complaint, and  
20 even if both parties concede that the federal defense is the only question truly at issue.”  
21 Id. at 393.

22 A review of the state court complaint in this case shows that Plaintiff Fenton  
23 Mission Valley, LLC (“Plaintiff”) alleges a single cause of action for unlawful detainer  
24 under California state law. Dkt. No. 1-2 at 2-5. In the notice of removal, Defendants  
25 argue that this Court has federal question jurisdiction over the complaint for the  
26 following reasons: (1) the unlawful detainer complaint is subject to strict notice  
27 requirements; (2) Defendants filed a demurrer to the complaint based on a  
28 “3-Day Notice” that failed to comply with Section 1161(2) of the Code of Civil

1 Procedure; and (3) Defendant’s demurrer is a pleading that depends on the  
2 “determination of Defendant’s rights and Plaintiff’s duties under federal.” NTR, Dkt.  
3 No. 1 at 2.

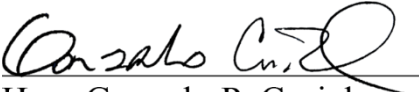
4 Defendants’ argument fails for two independent reasons. First, the notice  
5 requirements referenced in Defendants’ demurrer arise under state, not federal, law. The  
6 Code of Civil Procedure § 1161(2) is not a federal law. It is a California law that defines  
7 and explains what is required to bring an unlawful detainer action. *See* California Code  
8 of Civil Procedure § 1161. Accordingly, Defendants have failed to identify a federal law  
9 that could form the basis of Defendants’ removal to this Court under 28 U.S.C. §§ 1331  
10 and 28 U.S.C. § 1441. Second, even if Defendants had properly argued that Plaintiff  
11 violated a federal law, it would not matter because the presence or absence of federal  
12 question jurisdiction “is governed by the ‘well-pleaded complaint rule,’ which provides  
13 that federal jurisdiction exists only when a federal question is presented on the face of  
14 plaintiff’s properly pleaded complaint.” Caterpillar Inc. v. Williams, 482 U.S. 386, 392  
15 (1987). Accordingly, Defendants’ assertion of federal subject matter jurisdiction is  
16 without merit and Plaintiff’s state law unlawful detainer claim is not removable.

17 **CONCLUSION**

18 Based on the above, the Court *sua sponte* **REMANDS** the action to the Superior  
19 Court of the State of California for San Diego County. Defendants’ pending motions for  
20 leave to proceed in forma pauperis, therefore, are denied as moot.

21 **IT IS SO ORDERED.**

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23 Dated: August 7, 2017

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25 Hon. Gonzalo P. Curiel  
26 United States District Judge  
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