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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 GMS LIBERTY LLC,

12 Plaintiff,

13 v.

14 LINDA M. HIB, et al.,

15 Defendant.
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Case No.: 18cv529-LAB (BGS)

**ORDER DENYING MOTION TO
PROCEED IN FORMA
PAUPERIS;**

**ORDER TO SHOW CAUSE RE:
SANCTIONS;**

**ORDER FORBIDDING ANY
DEFENDANT FROM REMOVING
THIS CASE AGAIN; AND**

ORDER OF REMAND

21
22 Arun Mith, identifying himself as a Defendant in this case, filed a notice of
23 removal, purporting to remove this unlawful detainer action from the Superior Court
24 of California for the County of San Joaquin. Mith is proceeding pro se and has
25 filed a motion to proceed in forma pauperis ("IFP").

26 The notice of removal does not explain his connection to the property at issue
27 in the case — for example, as an owner, tenant or resident. He has represented
28 to this Court that he lives in San Diego, rather than Stockton, where the real

1 property is located that is the subject of this action. His IFP motion says he does
2 not own any real estate and says his monthly rent is \$500. By contrast, the state
3 court complaint says the agreed monthly rent on the subject property is \$2,000.
4 The IFP motion also lists no one as relying on Mith for support.

5 The IFP motion is incomplete. In addition, it indicates he has no debts or
6 assets of any kind; has received no gifts of money for the past twelve months; has
7 not been employed for the past two years; and does not expect this to change in
8 the next year. It says he receives \$200 per month in public assistance, and
9 estimates his monthly expenses at \$780, yet fails to explain how he gets the money
10 to pay these without any income or assets and without incurring debt. The motion
11 to proceed IFP is **DENIED**.

12 The notice of removal is riddled with problems. See 28 U.S.C. § 1446
13 (setting forth procedures for removal). In addition to the problems mentioned
14 above, the case was removed to the wrong court. Cases removed from state courts
15 in San Joaquin County may be removed to the U.S. District Court for the Eastern
16 District of California, not to this District. See § 1446(a). The case was filed in
17 October of 2016, so even if the case is still pending in state court, removal is almost
18 certainly untimely. The notice of removal says a copy was mailed to Plaintiff's
19 counsel, but does not include proof of filing in the state court. See § 1446(d)
20 (requiring that the removing party promptly file a copy of the notice of removal with
21 the clerk of the state court from which the case was removed).

22 The notice of removal does not include the required showing of jurisdiction.
23 See § 1446(a) (requiring the notice of removal to contain "a short and plain
24 statement of the grounds for removal"). The notice cites 28 U.S.C. § 1343 and
25 conclusorily claims Mith cannot get a fair trial in state court. (Notice of Removal,
26 & 11.) This statute provides that U.S. District Courts have jurisdiction over actions
27 to redress deprivations of certain federally-secured rights. A party seeking to
28 remove a case under § 1443(1) must satisfy a two-part test. See *Patel v. Del Taco*,

1 *Inc.*, 446 F.3d 996, 999 (9th Cir. 2006). The notice of removal falls short of this.
2 Finally, a review of dockets in California shows that this action has been removed
3 to several other U.S. District Courts in California, as follows:

- 4 1. 16cv2999, removed December 23, 2016 to the Eastern District and
5 remanded January 11, 2017, with instructions to the Clerk not to open
6 another case involving this unlawful detainer action;
- 7 2. 17cv4792, removed June 29, 2017 to the Central District and
8 summarily remanded July 7, 2017;
- 9 3. 17cv6615, removed September 8, 2017 to the Central District and
10 remanded September 14, 2017;
- 11 4. 17cv8404, removed November 17, 2017 to the Central District
12 purportedly by Arun Mith and remanded December 7, 2017;
- 13 5. 17cv9197, removed December 26, 2017 to the Central District, and
14 remanded January 1, 2018;
- 15 6. 18cv766, removed January 30, 2018 to the Central District
16 purportedly by Arun Muth and remanded February 6, 2018.

17 Mith filed motions to proceed IFP in the cases he removed, including declarations
18 under penalty of perjury. These appear to conflict materially with each other,
19 providing different addresses and giving different financial information. For
20 example, in case 17cv8404 (affidavit dated November 17, 2017), he gives his
21 address as 2488 Loma Vista Place in Los Angeles. He says he last filed an income
22 tax return in 2015, and has no income of any kind. In case 18cv766 (affidavit dated
23 January 29, 2018), he gives his address as 1594 Hickory Street in Los Angeles.
24 He says he last filed an income tax return in 2016, and says he is receiving no
25 income of any kind. In this case, he gives his address as 8462 Lake Ariana Avenue
26 in San Diego, and says he is receiving \$200 per month in public assistance.

27 In short, it appears Mith has removed this case that he knew was not
28 removable, for improper purposes. He knew it was not removable because he and

1 his associates have repeatedly been told so by judges. It also appears that he has
2 attempted to mislead the Court about his identity, address, financial status, and
3 relationship to the case. And it appears he has done these things as part of a
4 pattern of improper behavior for purposes of harassing, annoying, or imposing
5 costs on Plaintiff GMS Liberty LLC, its counsel Jaime Patena, and/or the state
6 court where the unlawful detainer action was filed, and possibly also delaying that
7 action or lawful foreclosure or eviction. Although several different names were
8 used in doing this, it appears that the same person or group of people acting
9 together did all of this. In so doing, it appears he has violated Fed. R. Civ. P. 11,
10 committed acts that potentially could be punished by contempt, and engaged in
11 vexatious litigation — all in bad faith.

12 Arun Mith is therefore **ORDERED TO SHOW CAUSE** why he should not be
13 sanctioned for his latest act of removing this case to federal court in the Southern
14 District of California, and for misstatements and misleading omissions in
15 documents he filed in this Court. He is **ORDERED TO APPEAR IN PERSON** at a
16 hearing on **Monday, April 9, 2018 at 4:00 p.m.** in Courtroom 14A (Carter-Keep
17 courthouse), 333 West Broadway, in San Diego, California, to address these
18 issues and explain himself. If he intends to rely on any evidence, he should be
19 prepared to present that at the hearing. He may be represented by counsel if he
20 wishes, but he must still appear in person. Counsel for GMS Liberty may, but need
21 not, appear at the hearing.

22 If Mr. Mith cannot appear on this date, he should file an ex parte motion
23 (without obtaining a hearing date) well before the hearing, requesting a
24 continuance and showing good cause for it. He should bear in mind that granting
25 or denying such a request is within the Court's discretion. If he fails to appear as
26 ordered, he will be subject to arrest and contempt proceedings.

27 The Clerk is directed to mail a copy of this order to Arun Mith at the address
28 in the docket by a means that (assuming it is delivered) will provide proof of

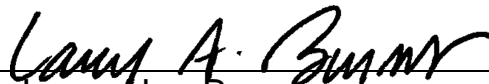
1 delivery. The U.S. Marshals Service shall serve a copy of this order on Arun Mith,
2 who can be found at 8711 Blue Grass Drive, Stockton, California 95210,¹ and shall
3 file proof of service after doing so. The U.S. Marshals Service shall also serve a
4 copy of this order on anyone else residing at 8711 Blue Grass Drive, and after
5 doing so shall file proof of service.

6 Because this case was improperly removed, it is **REMANDED** to the
7 Superior Court of California for the County of San Joaquin, except issues of
8 sanctions, contempt, or other discipline as to Arun Mith and other Defendants, over
9 which the Court retains jurisdiction.

10 Until further notice, Arun Mith and all other Defendants in this case, whether
11 named in the caption or not, are **ORDERED** not to remove this case again.

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13 **IT IS SO ORDERED.**

14 Dated: March 29, 2018

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17 Hon. Larry Alan Burns
18 United States District Judge
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27 _____
28 ¹ The Marshals Service may serve him wherever he may be found; it need not
serve him at this address.