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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 L&M Development Corporation of S.D.,  
12 Plaintiff,  
13 v.  
14 James Gregory, Rowena Gregory, Does 1  
15 to 10, inclusive,  
16 Defendant.

Case No.: 19cv1940-CAB-BGS

**ORDER SUA SPONTE REMANDING  
TO STATE COURT**

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18 On August 15, 2019, Plaintiff L&M Development Corporation of SD, filed a  
19 verified complaint for unlawful detainer against Defendants James Gregory and Rowena  
20 Gregory in San Diego County Superior Court. [Doc. No. 1-2.] On October 7, 2019,  
21 Defendants James Gregory and Rowena Gregory, proceeding pro se, removed the action  
22 to this court. [Doc. No. 1.] After reviewing Defendants' notice of removal and the  
23 underlying complaint, the Court finds that it lacks subject matter jurisdiction over this  
24 case. Therefore, for the following reasons, the Court **REMANDS** this action to state  
25 court.

26 DISCUSSION

27 A suit filed in state court may be removed to federal court by the defendant or  
28 defendants if the federal court would have had original subject matter jurisdiction over

1 that suit. 28 U.S.C. § 1441(a); *Snow v. Ford Motor Co.*, 561 F.2d 787, 789 (9th Cir.  
2 1977). The existence of federal jurisdiction must be determined on the face of the  
3 plaintiff's complaint. See *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). A  
4 "cause of action arises under federal law only when the plaintiff's well pleaded complaint  
5 raises issues of federal law." *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58, 63  
6 (1987). A well pleaded complaint must establish "either that federal law creates the  
7 cause of action or that the plaintiff's right to relief necessarily depends on resolution of a  
8 substantial question of federal law." *Franchise Tax Bd. v. Constr. Laborers Vacation*  
9 *Trust*, 463 U.S. 1, 27-28 (1983). The Court may remand sua sponte or on motion of a  
10 party, and the party who invoked the federal court's removal jurisdiction has the burden  
11 of establishing federal jurisdiction. See *Emrich v. Touche Ross & Co.*, 846 F.2d 1190,  
12 1195 (9th Cir. 1988), citing *Wilson v. Republic Iron & Steel Co.*, 257 U.S. 92, 97 (1921).  
13 The removal statute is strictly construed against removal jurisdiction and any doubt is  
14 resolved in favor of remand. *Boggs v. Lewis*, 863 F.2d 662, 663 (9th Cir. 1988); *Libhart*  
15 *v. Santa Monica Dairy Co.*, 592 F.2d 1062, 1064 (9th Cir. 1979). "Federal jurisdiction  
16 must be rejected if there is any doubt as to the right of removal in the first instance."  
17 *Gaus v. Miles*, 980 F.2d 564, 566 (9th Cir. 1992).

18 Generally, subject matter jurisdiction is based on the presence of a federal  
19 question, see 28 U.S.C. § 1331, or on complete diversity between the parties, see 28  
20 U.S.C. § 1332. Defendants allege that federal questions have been raised by their answer  
21 to the complaint. [Doc. No. 1 at 2.] The Court, however, must consider sua sponte  
22 whether jurisdiction actually exists. See *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116  
23 (9th Cir. 2004) (observing that a court is required to consider sua sponte whether it has  
24 subject matter jurisdiction). Here, federal question jurisdiction is absent because no  
25 "federal question is presented on the face of plaintiff's properly pleaded complaint."  
26 *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). Plaintiff's complaint asserts a  
27 single claim for unlawful detainer, a cause of action that is purely a matter of state law.  
28 *See Federal Nat. Mortg. Ass'n v. Enshiwat*, 2012 WL 683106, at \*1 (C.D. Cal. March 2,

1 2012) (“Unlawful detainer actions are strictly within the province of state court”)  
2 (quotations omitted); Galileo Fin. v. Miin Sun Park, EDCV 09-1660 PSG, 2009 WL  
3 3157411 (C.D. Cal. Sept. 24, 2009) (“the complaint only asserts a claim for unlawful  
4 detainer, a cause of action that is purely a matter of state law.”) Likewise, here, the face  
5 of Plaintiff’s complaint makes clear that no basis for federal question jurisdiction exists.

6 In addition, diversity jurisdiction is absent. For a federal court to exercise diversity  
7 jurisdiction, the amount in controversy requirement must be met. See 28 U.S.C. §  
8 1332(a). Plaintiff’s complaint clearly demonstrates that the amount in controversy does  
9 not exceed \$75,000, exclusive of attorneys fees and costs, as Plaintiff seeks limited civil  
10 damages totaling less than \$10,000. Thus, diversity jurisdiction is lacking.

11 CONCLUSION

12 Based on the foregoing, the Court lacks subject matter jurisdiction over this matter  
13 and therefore **REMANDS** the case to state court. Defendants’ motion to proceed in  
14 forma pauperis [Doc. No. 3] is **DENIED AS MOOT**.

15 **IT IS SO ORDERED.**

16 Dated: October 8, 2019

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19 Hon. Cathy Ann Bencivengo  
20 United States District Judge  
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