

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 13-2297 (DSD/AJB)

Fischer Market Place,
Plaintiff,

v.

ORDER

Gene Rechtzigel, Pro Se and
Trustee of the Rechtzigel Trusts,
Defendant.

This matter is before the court sua sponte. On August 22, 2013, pro se defendant Gene Rechtzigel removed this Torrens action from Minnesota state court. Federal courts, however, are courts of limited jurisdiction. Thomas v. Basham, 931 F.2d 521, 522 (8th Cir. 1991). As a result, the court must raise issues of jurisdiction sua sponte "when there is an indication that jurisdiction is lacking." Id. at 523. Here, Rechtzigel premises subject-matter jurisdiction on federal question jurisdiction. See ECF No. 1, Ex. 7. Specifically, Rechtzigel argues that his civil rights have been violated under 42 U.S.C. § 1983 and 18 U.S.C. § 241. Id.

A state court action, however, is removable only if the court has original jurisdiction. 28 U.S.C. § 1441(a). Under federal question jurisdiction, the court has "original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." Id. § 1331. The court considers "a claim to have arisen under federal law if a federal cause of action appears

on the face [of] a well-pleaded complaint." Oglala Sioux Tribe v. C & W Enters., Inc., 487 F.3d 1129, 1131 (8th Cir. 2007) (citation omitted). "Under the well-pleaded complaint rule, the existence of a federal cause of action depends upon the plaintiff's claim rather than any defense that may be asserted by the defendant." Id. (citation omitted). In this matter, plaintiff Fischer Market Place's claim in the state-court matter - a Torrens registration action - does not arise under federal law. Therefore, the court lacks jurisdiction over this action, and remand is warranted.

Accordingly, **IT IS HEREBY ORDERED** that this action is remanded to state court for lack of subject-matter jurisdiction.

Dated: August 23, 2013

s/David S. Doty
David S. Doty, Judge
United States District Court