

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRECKENRIDGE PROPERTY FUND
2016, LLC,

Plaintiff,

v.

RENEE SHIZUE RAMOS,

Defendant.

Case No. 20-cv-01607-HSG

**ORDER REMANDING CASE TO
STATE COURT**

Re: Dkt. No. 2

Plaintiff Breckenridge Property Fund2016, LLC filed an unlawful detainer action against Defendant Renee Shizue Ramos on October 8, 2019, in Alameda County Superior Court. *See* Dkt. No. 1 at ECF 11–15. On March 04, 2020, Defendant removed the case to this Court, invoking federal question jurisdiction based on the “constitutional provisions of due process before dispossession of the sale” and the “equitable right of redemption doctrine.” *See* Dkt. No. 1 at ¶ 4. Because Plaintiff’s complaint does not present a federal question, the Court *sua sponte* **REMANDS** the action to state court for lack of subject matter jurisdiction.

I. LEGAL STANDARD

“Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed” to federal court. 28 U.S.C. § 1441(a). District courts “shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

For removal to be proper, the federal question must be “presented on the face of the plaintiff’s properly pleaded complaint.” *See Hunter v. Phillip Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009); *see also Oklahoma Tax Comm’n v. Graham*, 489 U.S. 838, 840–41 (1989). The

1 removal statute is also strictly construed against removal jurisdiction. *See Gaus v. Miles, Inc.*, 980
 2 F.2d 564, 566 (9th Cir. 1992). “The strong presumption against removal jurisdiction means that
 3 the defendant always has the burden of establishing that removal is proper.” *Id.* Courts must
 4 reject federal jurisdiction “if there is any doubt as to the right of removal in the first instance.” *Id.*;
 5 *see also* 28 U.S.C. § 1447(c) (“If at any time before final judgment it appears that the district court
 6 lacks subject matter jurisdiction, the case shall be remanded.”).

7 II. DISCUSSION

8 A review of the state court complaint in this case shows that Plaintiff alleges a single claim
 9 for unlawful detainer premised solely on California law. *See* No. 1 at ECF 11–15. In her notice of
 10 removal, however, Defendant contends that Plaintiff’s complaint “disguised a central
 11 constitutional issue.” *See* Dkt. No. 1 at ¶ 4. Even if Defendant were protected by some
 12 constitutional provision, however, it is well-settled that anticipated defenses or counterclaims
 13 cannot establish a federal question because they do not appear on the face of the well-pleaded
 14 complaint. *See Valles v. Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005) (“A federal law
 15 defense to a state-law claim does not confer jurisdiction on a federal court”); *see also Ajello*
 16 *v. Farnung*, No. 19-CV-06994-HSG, Dkt. No. 8 (N.D. Cal. Nov. 12, 2019); *Wescom Credit Union*
 17 *v. Dudley*, No. CV 10-8203 GAF SSX, 2010 WL 4916578, at *2 (C.D. Cal. Nov. 22, 2010) (“An
 18 unlawful detainer action does not arise under federal law.”). The Court finds that no federal
 19 question is present on the face of the complaint, and that it thus does not have subject matter
 20 jurisdiction over this action.

21 III. CONCLUSION

22 The Court accordingly **REMANDS** the action to Alameda County Superior Court.
 23 Defendant’s *in forma pauperis* application, *see* Dkt. No. 2, is **DENIED** as moot. The Clerk is
 24 directed to close the case.

25 **IT IS SO ORDERED.**

26 Dated: 3/9/2020

27 
 28 HAYWOOD S. GILLIAM, JR.
 United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRECKENRIDGE PROPERTY FUND
2016, LLC,

Plaintiffs,

v.

RENEE SHIZUE RAMOS,

Defendants.

Case No.: 20-cv-01607-HSG

CERTIFICATE OF SERVICE

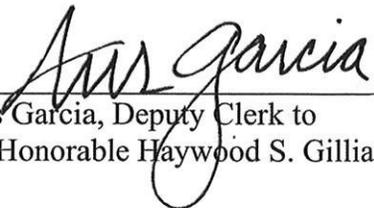
I, the undersigned, hereby certify that:

- (1) I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California; and
- (2) On 3/9/2020, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's office.

Renee Shizue Ramos
2703 Mathews Street
Berkeley, CA 94702

Dated: 3/9/2020

Susan Y. Soong
Clerk, United States District Court

By: 
Aris Garcia, Deputy Clerk to
the Honorable Haywood S. Gilliam, Jr.

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Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LP ACQUISITIONS, LLC, ET AL.,

Plaintiffs,

vs.

SHANE ARTERS, ET AL.,

Defendants.

CASE NO. 20-cv-00215-YGR

**ORDER GRANTING MOTION TO REMAND;
DISMISSING FEDERAL CLAIM**

Re: Dkt. No. 15

On February 3, 2020, plaintiffs Lamb Partners, LLC and LP Acquisitions, LLC filed a motion to remand this case back to the California Superior Court, County of San Mateo. (Dkt. No. 15.) Defendants Shane Arters and Dragoon Realty & Development, LLC filed an opposition thereto, after which plaintiffs filed a reply brief. (Dkt. Nos. 18, 20.)¹

Having carefully considered the briefing submitted in this matter, and in the interest of justice, the Court hereby **GRANTS** plaintiffs' request to dismiss **WITH PREJUDICE** their claim for violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, *et seq.* There being no federal claim, the Court declines to exercise supplemental jurisdiction over plaintiff's remaining state law claims. As such, the Court **GRANTS** plaintiffs' motion to remand the remaining claims to the California Superior Court, County of San Mateo. Further, because defendants had an objectively reasonable basis for seeking removal, the Court **DENIES** plaintiffs' request for attorneys' fees. The Clerk of Court is directed to remand the case and close the file.

This Order terminates Docket Number 15.

IT IS SO ORDERED.

Dated: March 9, 2020



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

¹ Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds the motion is appropriate for decision without oral argument.