

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Omnivest Corp. v. Johnny Acevedo, et al.

Omnivest Corp. · No. 2:25-cv-00995-DAD-SCR · Decided April 4, 2025

SUMMARY

The United States District Court for the Eastern District of California sua sponte remanded this removed unlawful detainer action to the Sacramento County Superior Court for lack of subject matter jurisdiction. The court held that the complaint arose entirely under California law and that anticipated federal defenses or counterclaims could not support removal; it denied a defendant’s motion to proceed in forma pauperis as moot and directed the clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dale A. Drozd
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 4, 2025
DOCKET	2:25-cv-00995-DAD-SCR
DISPOSITION	remanded
PROCEDURAL POSTURE	Defendants removed a California unlawful detainer action from the Sacramento County Superior Court and one defendant moved to proceed in forma pauperis. The federal district court sua sponte examined subject matter jurisdiction and remanded the action.
STANDARD OF REVIEW	The district court independently and sua sponte examined subject matter jurisdiction over the removed action; the opinion applies the presumption against removal and the burden on the removing party to establish federal jurisdiction.
PRECEDENTIAL VALUE	Unknown; district court order with no reported citation and no stated precedential status.
PARTIES	Johnny Acevedo, et al. v. Omnivest Corp.

TOPICS

- subject matter jurisdiction
- civil procedure
- landlord tenant
- eviction

PRACTICE AREAS

civil procedure

federal jurisdiction

removal and remand

landlord-tenant law

QUESTIONS PRESENTED

1. Whether the federal district court had subject matter jurisdiction over the removed unlawful detainer action.
2. Whether a federal defense or counterclaim could provide a basis for removal jurisdiction.
3. Whether the defendant's motion to proceed in forma pauperis remained viable after remand.

HOLDINGS

1. The district court lacked subject matter jurisdiction because the complaint pleaded only a California unlawful detainer claim and presented no federal question on its face.
2. A federal defense or counterclaim cannot form the basis for removal jurisdiction under the well-pleaded complaint rule.
3. Remand to the Sacramento County Superior Court was mandatory once the district court determined that federal subject matter jurisdiction was absent.

KEY QUOTATIONS

“A district court has “a duty to establish subject matter jurisdiction over the removed action sua sponte, whether the parties raised the issue or not.”” (at 1)

“The strong presumption against removal jurisdiction” means that “the court resolves all ambiguity in favor of remand to state court.”” (at 1)

“a case may not be removed on the basis of a federal defense . . . even if the defense is anticipated in the plaintiff’s complaint and both parties concede that the federal defense is the only question truly at issue.” (at 1)

“Remand of this case to the Sacramento County Superior Court is appropriate and mandatory.” (at 2)

FACTUAL BACKGROUND

Omnivest Corp. brought a straightforward unlawful detainer action based entirely on California state law. Defendants, proceeding pro se, removed the action to federal court and asserted federal-law grounds defensively. The complaint did not present a federal question on its face.

PROCEDURAL HISTORY

Omnivest Corp. filed an unlawful detainer action under California law in the Sacramento County Superior Court, case number 25UD000996. On April 2, 2025, defendants removed the action to the Eastern District of California, and Johnny Acevedo filed a motion to proceed in forma pauperis. The district court determined that the complaint presented no federal question, remanded the case for lack of subject matter jurisdiction, denied the in forma pauperis motion as moot, and closed the federal case.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The action was remanded forthwith to the Sacramento County Superior Court pursuant to 28 U.S.C. § 1447(c) for lack of subject matter jurisdiction. The clerk was directed to close the federal case.

CASES CITED

- United Investors Life Insurance Co. v. Waddell & Reed, Inc., 360 F.3d 960, 967 (9th Cir. 2004)
- Geographic Expeditions, Inc. v. Estate of Lhotka, 599 F.3d 1102, 1106-07, 1107 (9th Cir. 2010)
- ARCO Environmental Remediation, LLC v. Department of Health & Environmental Quality, 213 F.3d 1108, 1113 (9th Cir. 2000)
- Hunter v. Philip Morris USA, 582 F.3d 1039, 1042 (9th Cir. 2009)
- Gibson v. Chrysler Corp., 261 F.3d 927, 932 (9th Cir. 2001)
- Bruns v. NCUA, 122 F.3d 1251, 1257 (9th Cir. 1997)
- California ex rel. Lockyer v. Dynegy, Inc., 375 F.3d 831, 838 (9th Cir. 2004)
- California v. United States, 215 F.3d 1005, 1014 (9th Cir. 2000)
- Caterpillar, Inc. v. Williams, 482 U.S. 386, 392 (1987)
- Vaden v. Discover Bank, 556 U.S. 49, 70 (2009)

OPINION

(PS)(UD)Omnivest Corp v. Harmon

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 OMNIVEST CORP, No. 2:25-cv-00995-DAD-SCR (UD) (PS)

12 Plaintiff,

13 v. ORDER SUA SPONTE REMANDING CASE

TO THE SACRAMENTO COUNTY

14 JOHNNY ACEVEDO, et al., SUPERIOR COURT AND DENYING
MOTION TO PROCEED IN FORMA

15 Defendants. PAUPERIS AS MOOT 16 (Doc. No. 2) 17 18 This is an unlawful detainer action
brought under California state law by plaintiff 19 Omnivest Corp. On April 2, 2025, defendants,
proceeding pro se, removed this case to this 20 federal court from the Sacramento County Superior
Court and defendant Acevedo filed a motion 21 to proceed in forma pauperis.1 (Doc. Nos. 1, 2.)

22 A district court has “a duty to establish subject matter jurisdiction over the removed action 23 sua sponte, whether the parties raised the issue or not.” *United Investors Life Ins. Co. v. Waddell* 24 & Reed, Inc., 360 F.3d 960, 967 (9th Cir. 2004). The removal statute, 28 U.S.C. § 1441, is 25 strictly construed against removal jurisdiction. *Geographic Expeditions, Inc. v. Estate of Lhotka*, 26 599 F.3d 1102, 1107 (9th Cir. 2010). It is presumed that a case lies outside the limited 27 1 The case number of this action in the Sacramento County Superior Court is 25UD000996. 28 (Doc. No. 1 at 7.) 1 jurisdiction of the federal courts, and the burden of establishing the contrary rests upon the party 2 asserting jurisdiction. *Geographic Expeditions*, 599 F.3d at 1106–07. In addition, “the existence 3 of federal jurisdiction depends solely on the plaintiff’s claims for relief and not on anticipated 4 defenses to those claims.” *ARCO Envtl. Remediation, LLC v. Dep’t of Health & Envtl. Quality*, 5 213 F.3d 1108, 1113 (9th Cir. 2000). “The strong presumption against removal jurisdiction” 6 means that “the court resolves all ambiguity in favor of remand to state court.” *Hunter v. Philip* 7 *Morris USA*, 582 F.3d 1039, 1042 (9th Cir. 2009). That is, federal jurisdiction over a removed 8 case “must be rejected if there is any doubt as to the right of removal in the first instance.” 9 *Geographic Expeditions*, 599 F.3d at 1107. “If at any time prior to judgment it appears that the 10 district court lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447(c); 11 *Gibson v. Chrysler Corp.*, 261 F.3d 927, 932 (9th Cir. 2001). Remand under 28 U.S.C. § 1447(c) 12 “is mandatory, not discretionary.” *Bruns v. NCUA*, 122 F.3d 1251, 1257 (9th Cir. 1997); see also 13 *California ex. rel. Lockyer v. Dynegy, Inc.*, 375 F.3d 831, 838 (9th Cir. 2004). Where it appears, 14 as it does here, that the district court lacks subject matter jurisdiction over a removed case, “the 15 case shall be remanded.” 28 U.S.C. § 1447(c). 16 “The presence or absence of federal question jurisdiction is governed by the ‘well-pleaded 17 complaint rule,’ which provides that federal jurisdiction exists only when a federal question is 18 presented on the face of the plaintiff’s properly pleaded complaint.” *California v. United States*, 19 215 F.3d 1005, 1014 (9th Cir. 2000); see also *Dynegy*, 375 F.3d at 838. Under the well-pleaded 20 complaint rule, courts look to what “necessarily appears in the plaintiff’s statement of his own 21 claim in the bill or declaration, unaided by anything in anticipation of avoidance of defenses 22 which it is thought the defendant may interpose.” *California*, 215 F.3d at 1014. Accordingly, “a 23 case may not be removed on the basis of a federal defense . . . even if the defense is anticipated in 24 the plaintiff’s complaint and both parties concede that the federal defense is the only question 25 truly at issue.” *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987); see also *Vaden v. Discover Bank*, 556 U.S. 49, 70 (2009) (“It does not suffice to show that a federal question lurks 27 somewhere inside the parties’ controversy, or that a defense or counterclaim would arise under 28 federal law.”). 1 Here, defendants have not shown that removal of this action to this federal court is 2 | appropriate. Plaintiff’s complaint in this case is a straight-forward unlawful detainer action that is 3 | based entirely on state law. (Doc. No. 1 at 7-9.) There is no federal question present in the 4 | complaint. Ud.) Moreover, even assuming that defendants can assert a federal defense or 5 | counterclaim, they cannot use that as the basis for removal because the defensive invocation of 6 | federal law

cannot form the basis of this court's jurisdiction. See *Vaden*, 556 U.S. at 70; 7 | *Caterpillar*, 482 U.S. at 392; *California*, 215 F.3d at 1014. 8 Because there is no federal question appearing in plaintiff's complaint in this case, 9 | defendants have failed to properly invoke this court's jurisdiction. Remand of this case to the 10 | Sacramento County Superior Court is appropriate and mandatory. 28 U.S.C. § 1447(c); 11 | *Geographic Expeditions*, 559 F.3d at 1107; *Bruns*, 122 F.3d at 1257. 12 Accordingly, 13 1. This action is REMANDED forthwith to the Sacramento County Superior Court, 14 pursuant to 28 U.S.C. § 1447(c), for lack of subject matter jurisdiction; 15 2. Defendant Acevedo's motion to proceed in forma pauperis (Doc. No. 2) is denied 16 as having been rendered moot by this order; and 17 3. The Clerk of the Court is directed to CLOSE this case. 18 IT IS SO ORDERED. | pated: _ April 3, 2025 Da A. 2, gel
20 DALE A. DROZD
UNITED STATES DISTRICT JUDGE
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