



Con Am Management Corporation v. Ramirez

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

Armando Ramirez seeks removal of an unlawful detainer action filed in Kern County Superior Court. (Doc. 1). Because the Court lacks subject matter jurisdiction over the complaint, the action is REMANDED to Kern County Superior Court. 1. Factual and Procedural History On December 31, 2013, Plaintiff Con Am Management Corporation filed a complaint against Armando Ramirez and Socorro Reina Maduena for unlawful detainer in Kern County Superior Court, Case No. D-1503-CL-14015. 1

The defendants failed to file an answer or otherwise respond to the complaint. (See Doc. 1 at 2.) Therefore, Plaintiff requested the entry of default on February 11, 2014.

1 The Court may take notice of facts that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b); United States v. Bernal-Obeso, 989 F.2d 331, 333 (9th Cir. 1993). The accur records cannot reasonably be questioned, and judicial notice may be taken of court records. Mullis v. United States Bank. Ct., 828 F.2d 1385, 1388 n.9 (9th Cir. 1987); Valerio v. Boise Cascade Corp., 80 F.R.D. 626, 635 n.1 (N.D. Cal. 1978), 645 F.2d 699 (9th Cir. 1981); see also Colonial Penn Ins. Co. v. Coil, 887 F.2d 1236m 1239 (4th Cir. 1989); Rodic v. Thistledown Racing Club, Inc., 615 F.2d 736, 738 (6th Cir. 1980). Therefore, judicial notice is taken of the docket in Case No. D-1503-CL-14015. CON AM MANAGEMENT CORPORATION, Plaintiff, v. ARMANDO RAMIREZ, et al., Defendants.

Case No.: 1:14-cv-00843 - --- - JLT ORDER REMANDING THE MATTER TO KERN COUNTY SUPERIOR COURT FOR LACK OF JURISDICTION, AND PROCEED IN FORMA PAUPERIS AS MOOT\ 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

(See Doc. 1 at 7-8.) The Clerk of Court granted default judgment, and a writ of possession for the property was issued. (See Doc. 1 at 5.)

proceed in forma pauperis, thereby attempting to initiate the action in this Court. (Docs. 1-2.) II. Removal Jurisdiction



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Pursuant to 28 U.S.C. § 1441(a), a defendant has the right to remove a matter to federal court where the district court would have original jurisdiction. *Caterpillar, Inc. v. Williams*, 482 U.S. 286, 392 (1987). Specifically,

Except 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 by the defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

all civil actions arising under the Id. at § 1331. A party seeking removal must file a notice of removal of a civil action within thirty days of receipt of a copy of the initial pleading. Id. at § 1446(b). Removal statutes are to be strictly construed, and any doubts are to be resolved in favor of state court jurisdiction and remand. See *Gaus v. Miles*, 980 F.2d 564, 566 (9th Cir. 1992). The party seeking removal bears the burden of proving its propriety. *Duncan v. Stuetzle*, 76 F.3d 1480, 1485 (9th Cir. 1996); *Abrego v. Dow Chem. Co.*, 443 F.3d 676, 683-85 (9th Cir. 2006); see also *Calif. ex. rel. Lockyer v. Dynege, Inc.*, 2274 F.3d 831, 838 If there is any *Duncan*, 76 F.3d at 1485.

sua sponte United Investors Life Ins. Co. v. Waddell & Reed, Inc., 360 F.3d 960, 967 (9th Cir. 2004); see also *Homestead Ins. Co.*, 346 F.3d 1190, 1192-93 (9th Cir. 2003) (noting a distinction between procedural

must remand if it lacks jurisdiction). Thus, the Sixth Circuit explained a court can, in fact must, dismiss a case when it determines that it lacks Page v. City of Southfield, 45 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

F.3d 128, 133 (6th Cir. 1995). III. Discussion and Analysis

A. The Court lacks jurisdiction over the complaint -pleaded complaint federal jurisdiction exists only when a federal question is presented on the face of the *Caterpillar*, 482 U.S. at 392. Therefore, the *Williston Basin Interstate Pipeline Co. v. An Exclusive Gas Storage Leasehold & Easement*, 524 F.3d

1090, 1100 (9th Cir. 2008) (quoting *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 27-28 (1983)).

Here, Defendant has not provided a copy of the complaint filed by Con Am Management Corporation. However, the Kern County Superior Court case docket indicates the case was for Notice of Removal. (See Doc. 1 at 2.) Significantly, an unlawful detainer action does not arise under federal law, but arises instead under state law. See *Fannie Mae v. Suarez*, 2011 , y asserts a claim for

Defendant § 1443. This section reads,



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Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law. (Emphasis added) The mere fact that Mendoza asserts that he was not served with the summons and jurisdiction. Defendant must 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

dispute this within the state court system either through application to the trial court or to the Court of Appeal. Notably, Defendant has not shown and cannot show that his rights cannot be vindicated in the state court. On the laws which assure racial equality; it does not refer to every right guaranteed under federal law. Neal v.

Wilson, 920 F.Supp. 976, 984 (D.Ark.1996); Friend v. Kreger, 1998 WL 242685 at *1 (N.D. Cal. May 7, 1998). Thus, a denial of due process alone does implicate federal court jurisdiction. Therefore, because Plaintiff's complaint did not raise a claim that invokes federal subject matter jurisdiction, removal is improper.

B. Relief may not be granted under the Rooker-Feldman Doctrine Under the Rooker-Feldman doctrine, a party may not seek appellate review in federal court of a decision or judgment made by a state court. See *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983). The Ninth Circuit explained,

Typically, the Rooker-Feldman doctrine bars federal courts from exercising subject-matter jurisdiction over a proceeding in which a party losing in state court seeks what in substance would be appellate review of the state judgment in a United States district federal rights.

Doe v. Mann, 415 F.3d 1038, 1041-42 (9th Cir. 2005); see also *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005) (the Rooker-Feldman doctrine precludes a district court from -court losers complaining of injuries caused by state-court c *Bianchi v. Rylaarsdam*, 334

F.3d 895, 898 (9th Cir. 2003) (citing *Feldman*, 460 U.S. at 483, 485)). Here, judgment was entered against Defendant by the state court. Defendant claims that during the trial court proceedings, he was denied due process. However, the Rooker-Feldman doctrine prohibits a federal district court from exercising subject matter jurisdiction over a suit that is a de facto appeal from a state court judgment. *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 859 (9th Cir. 2008) (internal citations and



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quotation marks omitted). Consequently, the Court lacks in this matter. 1 2 3 4 5 6 7 8 9 10 11 12 13 14
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IV. Conclusion and Order

Because the Court does not have subject matter jurisdiction over the action for unlawful detainer, the matter must be remanded. See see also

Kelto , 346 F.3d at 1192- must remand if it lacks jurisdiction). Accordingly, IT IS HEREBY ORDERED: 1. The matter is REMANDED to the Superior Court of Kern County; and 2. MOOT; and

3. The Clerk of Court is DIRECTED to close this matter, because this Order terminates

the action in its entirety.

IT IS SO ORDERED. Dated: June 6, 2014 /s/ Jennifer L. Thurston UNITED STATES MAGISTRATE JUDGE

