

from state to federal court is appropriate. *McNutt v. Gen. Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936).

Plaintiff's state court petition does not contain a reference to federal law. To the contrary, the petition is based solely on a Texas state cause of action. Defendant claims that the court has federal jurisdiction because plaintiff is "in violation of the commercial lease agreement by illegally selling CBD products, adversely affecting the Defendant[s] business, according to 21 U.S.C. §§ 811 and 812." (Doc. 1-2, at 2.) But at most, defendant's reference to these federal statutes is either a counterclaim or a defense to why defendant should not pay plaintiff under the lease or be evicted. Neither a counterclaim nor a defense properly vests this court with federal jurisdiction. *See Topeka Housing Auth.*, 404 F.3d at 1247. And even if defendant were to assert that this court has diversity jurisdiction, plaintiff's state court petition does not seek damages in excess of \$75,000. This court lacks jurisdiction over the case, and the case must be remanded to state court.

IT IS THEREFORE ORDERED that this case is remanded to the Collin County, Texas Justice Court, Precinct No. 3, for lack of federal jurisdiction.

The case is closed.

Dated this 31st day of July, 2019, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge