

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ALL MISSION INDIAN HOUSING
AUTHORITY,

Plaintiff,

vs.

BEN MAGANTE, JR. And CATHERINE
JEWEL MAGANTE,

Defendant.

CASE NO. 06cv1678 BTM (NLS)

ORDER TO SHOW CAUSE

On August 18, 2006, Plaintiff filed the instant complaint in unlawful detainer to recover possession of land and for damages. Plaintiff All Mission Indian Housing Authority ("AMIHA"), which describes itself as a federally-sanctioned and federally-funded Indian Housing Authority, seeks to evict Defendants from a home which AMIHA has rented to them because of Defendants' failure to pay rent. AMIHA is organized under the authority of the federally-recognized Indian tribes which are members of AMIHA.

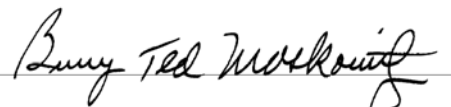
Plaintiff claims that this Court enjoys jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337, and 1362. All three statutory jurisdictional grants cited by Plaintiff require that the action at issue arise under federal law, that is, they require a "federal question." 28 U.S.C. § 1331 ("all civil actions arising under the Constitution, laws, or treaties of the United States"); 28 U.S.C. § 1337 ("any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies"); 28 U.S.C. § 1362 ("all civil actions, brought by an Indian tribe or band . . . wherein the matter

1 in controversy arises under the Constitution, laws, or treaties of the United States”).
2 Plaintiff’s complaint for unlawful detainer is a landlord-tenant dispute, which is generally a
3 matter of state law. See Round Valley Indian Housing Authority v. Hunter, 907 F. Supp.
4 1343, 1348 (N.D.Cal. 1995) (citing Powers v. United States Postal Service, 671 F.2d 1041,
5 1045 (7th Cir. 1982)). The fact that Plaintiff’s claim to the land at issue is ultimately derived
6 from the federally-defined land rights of its member Indian tribes does not convert the present
7 controversy into one that presents a federal question. Cf. Oneida Indian Nation v. County
8 of Oneida, 414 U.S. 661, 676 (1974) (“a controversy in respect of lands has never been
9 regarded as presenting a Federal question merely because one of the parties to it has
10 derived his title under an act of Congress”) (quoting Shulthis v. McDougal, 255 U.S. 561, 570
11 (1912)). Plaintiff is suing upon the lease and mutual-help and occupancy agreements that
12 it entered into with Defendants in 1988. The interpretation of these agreements is governed
13 by State, not Federal, law. See Minnesota Chippewa Tribal Housing Corp. v. Reese, 978
14 F. Supp. 1258, 1266 (D. Minn. 1997). Thus, the action does not appear to arise under
15 federal law.

16 Accordingly, this Court hereby **ORDERS** Plaintiff to show cause why this case should
17 not be dismissed for want of jurisdiction. Plaintiff and Defendant shall file a response to this
18 Order no later than **December 20, 2006**. The Court hereby sets the matter for hearing on
19 **January 4, 2007 at 11 am** in the courtroom of the Honorable Barry Ted Moskowitz. Unless
20 the Court directs otherwise, the matter will be resolved without oral argument and no
21 personal appearances are necessary.

22
23 **IT IS SO ORDERED.**

24
25 DATED: November 27, 2006

26 
27 Hon. Barry Ted Moskowitz
28 United States District Judge