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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE E. ENGSTROM,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

CASE NO. C15-0462JLR

ORDER TO SHOW CAUSE

Before the court is Defendant Microsoft Corporation’s (“Microsoft”) notice of removal of this lawsuit from King County Superior Court of Washington State to federal district court in the Western District of Washington. (Notice (Dkt. # 1).) The court has reviewed the notice of removal and the attached complaint and now ORDERS Microsoft to show cause why the case should not be remanded for lack of subject matter jurisdiction.

Microsoft’s notice of removal invokes the court’s subject matter jurisdiction under 28 U.S.C. § 1331 based on the alleged presence of a federal question. (*Id.* at 2.)

1 Plaintiff, however, brings only a Washington state law claim for wrongful discharge in
2 violation of public policy. (*See generally* Compl. (Dkt. # 1-1).) Microsoft contends that
3 federal question jurisdiction applies because the Federal Corrupt Practices Act (“FCPA”)
4 establishes the public policy allegedly violated by Microsoft. (*See id.* ¶ 2.25; Notice at 7-
5 8.)

6 This court has original federal question jurisdiction over “civil actions arising
7 under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Most
8 often, “a case arises under federal law when federal law creates the cause of action
9 asserted.” *Gunn v. Minton*, --- U.S. ---, 133 S. Ct. 1059, 1065 (2013). Even when the
10 complaint fails to allege a federal cause of action directly, however, sometimes “federal-
11 question jurisdiction will lie over state-law claims that implicate significant federal
12 issues.” *Grable & Sons Metal Prods. Co. v. Darue Eng’g & Mfg.*, 545 U.S. 308, 312
13 (2005).

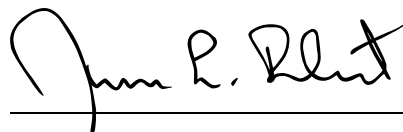
14 The Supreme Court has explained that in such instances “federal jurisdiction over
15 a state-law claim will lie if a federal issue is: (1) necessarily raised, (2) actually disputed,
16 (3) substantial, and (4) capable of resolution in federal court without disrupting the
17 federal-state balance approved by Congress.” *Gunn*, 133 S. Ct. at 1065. A case fits
18 within this “special and small category,” *id.* at 1064 (quoting *Empire Healthchoice*
19 *Assurance, Inc. v. McVeigh*, 547 U.S. 677, 699 (2006)), only if “all four of these elements
20 are met,” *id.* at 1065.

21 Microsoft’s notice of removal does not establish that these four elements are met.
22 (*See generally* Notice.) “[A] court may raise the question of subject matter jurisdiction,

1 *sua sponte*, at any time during the pendency of the action” *Snell v. Cleveland, Inc.*,
2 316 F.3d 822, 826 (9th Cir. 2002); *see also United Investors Life Ins. Co. v. Waddell &*
3 *Reed, Inc.*, 360 F.3d 960, 966 (9th Cir. 2004) (“Here the district court had a duty to
4 establish subject matter jurisdiction over the removed action *sua sponte*, whether the
5 parties raised the issue or not.”). “If at any time before final judgment it appears that the
6 district court lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C.
7 § 1447(c).

8 Accordingly, the court ORDERS Microsoft to show cause within fourteen (14)
9 days of the date of this order why the case should not be remanded to King County
10 Superior Court for lack of subject matter jurisdiction. Microsoft shall limit its submission
11 to 10 pages. Plaintiff may, but is not required to, file a submission addressing subject
12 matter jurisdiction subject to those same restrictions. If the court does not receive a
13 response from Microsoft providing a basis for its exercise of subject matter jurisdiction
14 over this lawsuit within fourteen days of the date of this order, the court will remand this
15 case to King County Superior Court.

16 Dated this 7th day of April, 2015.

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19 JAMES L. ROBART
20 United States District Judge
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