

federal law, courts look to the “well-pleaded” allegations of the complaint, ignoring potential defenses. *See Aetna Health Inc. v. Davila*, 542 U.S. 200, 207 (2004); *Beneficial Nat’l Bank v. Anderson*, 539 U.S. 1, 6 (2003). Thus, the existence of a federal defense—including a defense that relies on a constitutional provision—“normally does not create statutory ‘arising under’ jurisdiction, and a defendant may not [generally] remove a case to federal court unless *plaintiff’s* complaint establishes that the case ‘arises under’ federal law.” *Aetna Health*, 542 U.S. at 207 (internal quotation and citations omitted); *see also Beneficial*, 539 U.S. at 6.

Here, there is no federal question on the face of the amended complaint. It alleges only state-law claims: defamation, intentional infliction of emotional distress, negligent infliction of emotional distress, and civil conspiracy. (Def. Ex. 5). Defendant may raise a defense to the defamation claim under the First Amendment, but the existence of a defense based on the Constitution, under the circumstances presented here, cannot form the basis of federal-question jurisdiction. Accordingly, the Court lacks subject-matter jurisdiction.

For the foregoing reasons, plaintiff’s motion to remand is GRANTED. The case is hereby REMANDED to the Middlesex County Superior Court.

So Ordered.

Dated: September 18, 2020

/s/ F. Dennis Saylor, IV
F. Dennis Saylor, IV
Chief Judge, United States District Court