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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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Freedom Home Mortgage Corp.,

No. CV 14-912-PHX-JAT

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Plaintiff,

ORDER

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vs.

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Betty Ramos,

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Defendant.

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On April 30, 2014, Defendant, pro se, removed this forcible entry and detainer action from state court to federal court. Defendant also moved to proceed in forma pauperis.

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From Defendant’s application, it appears she makes \$4,400.00 per month. The Court finds this is sufficient income to pay the filing fee and will deny the application to proceed in forma pauperis. Defendant will be given the option of paying the filing fee or having this case remanded to state court.

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Further, from the notice of removal, it appears that this Court lacks subject matter jurisdiction over this case. Specifically, Defendant’s allegations of subject matter jurisdiction all appear to be based on either proposed counterclaims or affirmative defenses. However, subject matter jurisdiction must be based on the allegations in the complaint. *See Takeda v. Northwestern Nat. Life Ins. Co.*, 765 F.2d 815, 822 n. 9 (9th Cir. 1985) (“[U]nder the present statutory scheme as it has existed since 1887, a defendant may not remove a case to federal court unless the *plaintiff’s* complaint establishes that the case ‘arises under’ federal

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1 law.”(quoting *Franchise Tax Board v. Construction Laborers Vacation Trust*, 463 U.S. 1,
2 10 (1983)).

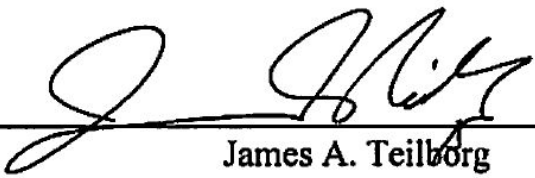
3 Based on the foregoing,

4 **IT IS ORDERED** that the application to proceed in forma pauperis (Doc. 2) is
5 denied.

6 **IT IS FURTHER ORDERED** that if Defendant does not pay the filing fee by May
7 16, 2014, the Clerk of the Court shall remand this case to state court.

8 **IT IS FINALLY ORDERED** that if Defendant pays the filing fee on or before May
9 16, 2014, then, by May 23, 2014, Defendant shall file a supplement to the notice of removal
10 properly alleging federal subject matter jurisdiction or this case will be remanded on that
11 basis.

12 DATED this 5th day of May, 2014.

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17 James A. Teilborg
18 Senior United States District Judge
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