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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Fiesta Pediatric Therapy Incorporated, et al.,
10 Plaintiffs/counterdefendants,
11 v.
12 Joanne Zuniga,
13 Defendant/counterclaimant.
14

No. CV-17-00247-PHX-JAT

ORDER TO SHOW CAUSE

15 “Inquiring whether the court has jurisdiction is a federal judge’s first duty in every
16 case.” *Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 693
17 (7th Cir. 2003). In this case, the notice of removal fails to sufficiently plead jurisdiction.

18 Generally, federal subject matter jurisdiction must exist based on the plaintiff’s
19 complaint. *See Takeda v. Northwestern Nat. Life Ins. Co.*, 765 F.2d 815, n. 9 (9th Cir.
20 1985) (“[U]nder the present statutory scheme as it has existed since 1887, a defendant
21 may not remove a case to federal court unless the *plaintiff’s* complaint establishes that the
22 case ‘arises under’ federal law.”) (quoting *Franchise Tax Board v. Construction Laborers*
23 *Vacation Trust*, 463 U.S. 1, 10 (1983)).

24 In this case, Plaintiffs/Counterdefendants state in their notice of removal that
25 removal is based on Defendant/Counterclaimants’ counterclaim. Doc. 1 at 2. Standing
26 alone, that is not a sufficient basis for federal subject matter jurisdiction.

27 Therefore,

28 **IT IS ORDERED** that by February 22, 2017, Plaintiffs/counterdefendants (as the

1 removing party with the burden of establishing federal subject matter jurisdiction) shall
2 show cause why this case should not be remanded to state court.
3 Defendant/counterclaimant may respond within 10 calendar day (3 days for mailing shall
4 not be added to the 10 days). Plaintiffs/counterdendants may reply within 5 calendar
5 days (3 days for mailing shall not be added to the 5 days).

6 Dated this 8th day of February, 2017.

