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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
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12 NINA CULVER,
13 Plaintiff,
14 v.
15 TIFFANY BURTON, et al.,
16 Defendants.

Case No. CV 14-02429 (SS)

**ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION**

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18 The Court will remand this unlawful detainer action to state
19 court summarily because Defendants removed it improperly.

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21 On March 31, 2014, Defendants Tiffany Burton and William
22 Burton, having been sued in what appears to be a routine unlawful
23 detainer action in California state court, lodged a Notice of
24 Removal ("Notice") to this Court and also presented an
25 application to proceed in forma pauperis. The Court has denied
26 the latter application under separate cover because the action
27 was not properly removed.
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1 To prevent the action from remaining in jurisdictional
2 limbo, the Court issues this Order to remand the action to state
3 court.

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5 Simply stated, this action could not have been originally
6 filed in federal court because the complaint does not allege
7 facts supporting either diversity or federal-question
8 jurisdiction, and therefore removal is improper. 28 U.S.C.
9 § 1441(a); see Exxon Mobil Corp v. Allapattah Svcs., Inc., 545
10 U.S. 546, 563 (2005). Defendants' notice of removal asserts that
11 removal is proper based upon federal question jurisdiction.
12 (Notice at 3). However, a review of the Notice reveals that if
13 any federal question exists, it exists only as an affirmative
14 defense. (Notice at 3-4). Accordingly, the action cannot be
15 removed to federal court. Merrell Dow Pharmaceuticals, Inc. v.
16 Thompson, 478 U.S. 804, 808 (1986) ("[a] defense that raises a
17 federal question is inadequate to confer federal jurisdiction.").

1 Accordingly, IT IS ORDERED that (1) this matter be REMANDED
2 to the Superior Court of California, County of Los Angeles, 1725
3 Main Street Avenue, Santa Monica, CA 90401, for lack of subject
4 matter jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) the
5 Clerk send a certified copy of this Order to the state court; and
6 (3) the Clerk serve copies of this Order on the parties.

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8 IT IS SO ORDERED

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10 DATED: April 20, 2014

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13 GEORGE H. KING
14 CHIEF UNITED STATES DISTRICT JUDGE
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