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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SHAHIN AMINILARI,)	CASE NO. CV 14-3093 ABC (PJWx)
)	
Plaintiff,)	
)	
vs.)	
)	ORDER REMANDING CASE TO STATE
ELISA GOMEZ and DOES 1-10, inclusive,)	COURT
)	
Defendants.)	
_____)	
)	
)	

On April 23, 2014, *pro se* Defendant Elisa Gomez, having been sued in what appears to be a routine unlawful detainer action in California state court, filed a Notice of Removal of that action to this Court. (Docket No. 1.) For the reasons set forth below, the Court **REMANDS** this case for lack of subject matter jurisdiction.

As a routine unlawful detainer action, Plaintiff could not have brought this action in federal court initially because the complaint does not competently allege facts creating subject matter jurisdiction, rendering removal improper. 28 U.S.C. §1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563, 125 S.Ct. 2611, 162 L.Ed.2d 502 (2005). First, the Complaint for unlawful detainer does not give rise to a federal question. *See* 28 U.S.C. §§ 1331, 1441(b). Defendant's Notice of Removal asserts that "Plaintiff's claim is based upon a notice which expressly references and

1 incorporates the “Protecting Tenants at Foreclosure Act of 2009,” 12 U.S.C. § 5201.
2 (Docket No. 1 at 2.) That statute, however, is not implicated by Plaintiff’s Complaint,
3 which is limited to a claim for unlawful detainer. To the extent Defendant seeks to
4 assert the “Protecting Tenants at Foreclosure Act” as a potential defense or
5 counterclaim, neither are considered in evaluating whether a federal question appears on
6 the face of a complaint. Vaden v. Discover Bank, 556 U.S. 49, 50 (2009) (federal
7 jurisdiction cannot “rest upon an actual or anticipated counterclaim”); Valles v. Ivy Hill
8 Corp., 410 F.3d 1071, 1075 (9th Cir. 2005) (“A federal law defense to a state-law claim
9 does not confer jurisdiction on a federal court, even if the defense is that of federal
10 preemption and is anticipated in the plaintiff’s complaint.”).

11 Second, the amount in controversy is under \$10,000 in this limited civil case, and
12 therefore does not exceed the diversity jurisdiction threshold of \$75,000. *See* 28 U.S.C.
13 §§ 1332, 1441(b).

14 Accordingly, the Court (1) **REMANDS** this case to the Superior Court of
15 California, County of San Luis Obispo, for lack of subject matter jurisdiction pursuant
16 to 28 U.S.C. § 1447(c); (2) **ORDERS** the Clerk to send a certified copy of this Order to
17 the state court; and (3) **ORDERS** the Clerk to serve copies of this Order on the parties.

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19 **IT IS SO ORDERED.**

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21 DATED: April 28, 2014



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23 AUDREY B. COLLINS
24 UNITED STATES DISTRICT JUDGE
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