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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BERENICE DENA,

 Plaintiff,

 v.

JOHN LAWRENCE AGOSTINO, et al.,

 Defendants.

Case No. CV 14-3819 UA

**ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION**

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

On May 16, 2014, Defendants John Lawrence Agostino and Kimberly Agostino, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice of Removal ("Notice") to this Court and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action 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 appears to
11 assert that removal is proper based upon federal question
12 jurisdiction. (Notice at 2). However, a review of the Notice
13 reveals that if any federal question exists, it exists only as an
14 affirmative defense. (Id.). As such, 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.").

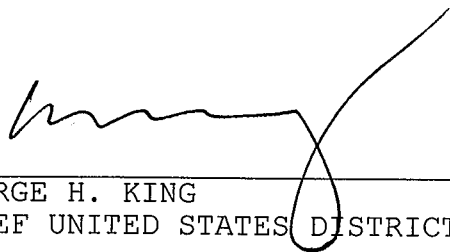
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1 Accordingly, IT IS ORDERED that (1) this matter be REMANDED
2 to the Superior Court of California, County of Los Angeles, South
3 District-Long Beach, 275 Magnolia Avenue, Long Beach, CA 90802,
4 for lack of subject matter jurisdiction pursuant to 28 U.S.C.
5 § 1447(c); (2) the Clerk send a certified copy of this Order to
6 the state court; and (3) the Clerk serve copies of this Order on
7 the parties.

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IT IS SO ORDERED

DATED: June 6, 2014



GEORGE H. KING
CHIEF UNITED STATES DISTRICT JUDGE