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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
RIVERSIDE

BY: \_\_\_\_\_

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

McKINLEY HOLDING I, LP,  
Plaintiff,  
vs.  
MARIA A. SALCEDO,  
Defendant.

Case No. ED CV 12-1897-UA (DUTYx)

ORDER SUMMARILY REMANDING  
IMPROPERLY-REMOVED ACTION

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

On October 31, 2012, defendant Maria A. Salcedo, having been sued in what appears to be a routine unlawful detainer action in California Superior Court, lodged a Notice of Removal of that action 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. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Simply stated, plaintiff could not have brought this action in federal court in the first place, in that defendant does not competently allege facts supplying either

1 diversity or federal question jurisdiction. *See* 28 U.S.C. § 1441(a); *Exxon Mobil*  
2 *Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563, 125 S. Ct. 2611, 162 L. Ed. 2d  
3 502 (2005). Further, defendant's assertion of removal jurisdiction under 28 U.S.C.  
4 § 1443 is baseless, as she has not satisfied either prong of the two-part test  
5 required for removal under § 1443(1). *See Patel v. Del Taco, Inc.*, 446 F.3d 996,  
6 999 (9th Cir. 2006). As described in more detail in the Order Denying  
7 Defendant's Request to Proceed Without Prepayment of Filing Fee, the Notice of  
8 Removal fails to assert, as a defense to the unlawful detainer action, a statutory  
9 right for the protection of racial equality, and also fails to point to any state statute  
10 or constitutional provision that commands the state courts to ignore such federal  
11 right.

12 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the  
13 Superior Court of California, Riverside County, Southwest Justice Center,  
14 30755-D Auld Road, Murrieta, CA 92563, for lack of subject matter jurisdiction  
15 pursuant to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified copy of this  
16 Order to the state court; and (3) that the Clerk serve copies of this Order on the  
17 parties.

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19  
20 DATED: 11/8/12

  
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HONORABLE GEORGE H. KING  
CHIEF UNITED STATES DISTRICT JUDGE