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

LUCINA GALAN,
Plaintiff,
v.
CARLOS CASTANEDA, et al.,
Defendants.

) Case No. SA CV 14-1964 DOC (JCGx)

) **ORDER SUMMARILY
REMANDING IMPROPERLY
REMOVED ACTION**

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

On December 10, 2014, Defendant Carlos Castaneda, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice of Removal of that action in this Court, and also presented a request for leave to proceed *in forma pauperis*. [Dkt. Nos. 1, 4.] 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

1 the first place. That is, Defendant does not competently allege facts supplying either
2 diversity or federal question jurisdiction, and thus removal is improper. 28 U.S.C.
3 § 1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563 (2005).

4
5 To the extent diversity jurisdiction is asserted, even if complete diversity of
6 citizenship exists, the amount in controversy does not exceed the jurisdictional
7 threshold of \$75,000. *See* 28 U.S.C. §§ 1332, 1441(b). On the contrary, the
8 unlawful detainer complaint recites that the amount in controversy does not exceed
9 \$10,000. Moreover, because Defendant resides in the forum state, he cannot
10 properly remove the action on the basis of diversity jurisdiction. *See* 28 U.S.C.
11 § 1441(b)(2).

12 Nor does Plaintiff’s unlawful detainer proceeding raise any federal legal
13 question. *See* 28 U.S.C. §§ 1331, 1441(b). Federal question jurisdiction under
14 § 1331 encompasses civil actions that arise under the Constitution, laws, or treaties
15 of the United States. *See* 28 U.S.C. § 1331. Plaintiff’s complaint for unlawful
16 detainer alleges a cause of action arising under the laws of the State of California.
17 To be sure, Defendant claims to have asserted a counterclaim against Plaintiff under
18 the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* [*See* Dkt. No. 1
19 at 2.] However, a federal law counterclaim may not serve as a basis for federal
20 question jurisdiction. *Strategic Acquisitions v. Zarian*, 2014 WL 5460587, at *2
21 (C.D. Cal. Oct. 27, 2014); *see also Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009)
22 (“[A] federal counterclaim, even when compulsory, does not establish ‘arising
23 under’ jurisdiction.”).

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1 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the
2 Superior Court of California, County of Orange County, 700 Civic Center Drive,
3 P.O. Box 22014, Santa Ana, CA 92701, for lack of subject matter jurisdiction
4 pursuant to 28 U.S.C. § 1447(c); (2) the Clerk send a certified copy of this Order to
5 the state court; and (3) the Clerk serve copies of this Order on the parties.

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7 IT IS SO ORDERED.

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9 Dated: December 17, 2014

David O. Carter

HON. DAVID O. CARTER
UNITED STATES DISTRICT JUDGE

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