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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 CITY OF GALT, a municipal corporation,
12 Plaintiff,

13 v.

14 7 STAR LLC, a California Limited liability
15 company; PACIFIC WESTERN BANK, as
16 successor by merger with CapitolSource
17 Bank; and DOES 1 through 50,
Defendants.

No. 2:15-cv-00189-KJM-AC

ORDER

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19 7 STAR LLC, a California Limited
20 Liability Company, Harjinder S. Sandhu,
an individual, Sukhdev Singh Sandhu, an
individual,

21 Cross-Claimants,

22 v.

23 CITY OF GALT, a municipal corporation,
24 ROES 1-50,

25 Cross-Defendants.
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1 Defendants and cross-claimants, 7 STAR LLC, Harjinder S. Sandhu and Sukhdev
2 Singh Sandhu, filed a notice of removal on January 19, 2015. ECF No. 1. The notice asserts this
3 court's removal jurisdiction under 28 U.S.C. §§ 1331 and 1441 based on claims arising under 42
4 U.S.C. § 1983, 42 U.S.C. § 3601 and 28 U.S.C. § 1331. These claims, however, are not part of
5 the original state-court complaint, but are asserted in a cross-claim filed concurrently with the
6 defendants' answer. See ECF Nos. 2–4; Not. Removal Ex. A; *id.* at 2, ECF No. 1 (“This action is
7 a civil action of which this court has original jurisdiction under 28 U.S.C. § 1331
8 Specifically, the Defendant's cross complaint raises issues under 42 U.S.C. 1983, 42 U.S.C. 3601,
9 and the 14th Amendment of the United States.”).

10 “[A] counterclaim—which appears as part of the defendant's answer, not as part of
11 the plaintiff's complaint—cannot serve as the basis for ‘arising under’ jurisdiction.” *Holmes*
12 *Grp., Inc. v. Vornado Air Circulation Sys., Inc.*, 535 U.S. 826, 831 (2002). In other words,
13 “defendants may remove only on the basis of claims brought against them and not on the basis of
14 counterclaims, cross-claims, or defenses asserted by them.” 14C Charles A. Wright, et al.,
15 Federal Practice and Procedure § 3730 (4th ed.).

16 The case is REMANDED to the Sacramento County Superior Court.

17 IT IS SO ORDERED.

18 DATED: January 28, 2015.

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21 UNITED STATES DISTRICT JUDGE
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