

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 WACHOVIA MORTGAGE,

No. C 10-1258 CRB

12 Plaintiff,

**ORDER REMANDING TO STATE
COURT**

13 v.

14 ALMA MAGANA,

15 Defendant.
16 _____/

17 On May 3, 2010, this Court issued an order to show case why this case should not be
18 remanded to state court for lack of federal subject matter jurisdiction. See Dkt. #10.
19 Defendant, who had removed this case, filed an opposition on May 28, 2010. See Dkt. #14.
20 Defendant argues that federal question jurisdiction exists by virtue of the Protecting Tenants
21 at Foreclosure Act. However, Plaintiff's complaint states no claim under that Act. Instead,
22 the complaint asserts an unlawful detainer action. Such an action raises no federal question,
23 and even if Defendant were able to articulate a federal counterclaim, such counterclaims
24 cannot give rise to federal jurisdiction.

25 Alternatively, Defendant suggests that diversity jurisdiction exists. However, the
26 complaint seeks less than \$10,000 in damages. This is insufficient under the statute, which
27 requires at least \$75,000. Plaintiff argues that her counterclaims are sufficiently valuable,
28 but the amount in controversy is determined without regard to the value of a Defendant's
counterclaims. Snow v. Ford Motor Co., 561 F.2d 787, 789 (9th Cir. 1977).

1 Because there is no basis for either federal question or diversity jurisdiction, this case
2 is REMANDED to state court.

3 **IT IS SO ORDERED.**

4
5 

6 Dated: June 22, 2010

CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE