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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 HPROF, LLC,

12 Plaintiff,

13 v.

14  
15 OMAR GAGNI, HELEN GAGNI, and  
16 DOES 1-5, inclusive,

17 Defendants.  
18

Case No. 13-cv-3280 JSC

**ORDER GRANTING IN FORMA  
PAUPERIS AND ORDER TO SHOW  
CAUSE**

19 Plaintiff brought this state law unlawful detainer action against Defendants in the  
20 Superior Court of California for the County of Solano seeking to evict Defendants from real  
21 property located at 4941 Paramount Way, Fairfield, California. Defendants subsequently  
22 purported to remove the action to this Court asserting federal question jurisdiction.  
23 Defendants have filed an application to proceed in forma pauperis (“IFP”). (Dkt. No. 2.) The  
24 Court has reviewed the IFP Application and finds that Defendants qualify. Therefore, the  
25 IFP Application is GRANTED.

26 Defendants, as the party seeking removal to this federal court, bear the burden of  
27 establishing that subject matter jurisdiction exists, and courts strictly construe the removal  
28 statute against removal jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-67 (9th Cir. 1992).

United States District Court  
Northern District of California

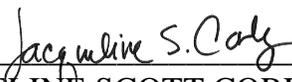
1 Further, when a case is removed to federal court, the court has an independent obligation to  
2 satisfy itself that it has federal subject matter jurisdiction. *Valdez v. Allstate Ins. Co.*, 372 F.3d  
3 1115, 1116 (9th Cir. 2004). The Court has reviewed the Notice of Removal and determined  
4 that federal question jurisdiction does not exist.

5 “Federal question jurisdiction exists only when a federal question exists on the face of  
6 a well-pleaded complaint.” *ING Bank, FSB v. Pineda*, No. 12-2418, 2012 WL 2077311, at \*1  
7 (N.D. Cal. June 8, 2012). The removed complaint makes only a state law claim for unlawful  
8 detainer. (Dkt. No. 1-1, p. 10.) Therefore, this Court does not have federal question  
9 jurisdiction. *ING Bank, FSB*, 2012 WL 2077311, at \*1. That Defendants’ answer raised  
10 federal questions is irrelevant; a defendant cannot create federal subject matter jurisdiction by  
11 adding claims or raising defenses. *Holmes Group, Inc. v. Vornado Air Circulation*, 535 U.S.  
12 826, 830-31 (2002); *Federal Nat. Mortg. Ass’n v. Sue Lin Poh*, No. 12-2707, 2012 WL  
13 3727266, at \*2 (N.D. Cal. Aug. 28, 2012) (remanding removed unlawful detainer action).

14 Accordingly, Defendants are ordered to show cause why this case should not be  
15 remanded to the Alameda County Superior Court. In particular, if Defendants believe that this  
16 Court has subject matter jurisdiction, they shall file a response in writing by **August 2, 2013**  
17 that demonstrates why this Court has jurisdiction. Defendants are warned that failure to file a  
18 response may result in remand of this action to state court for lack of federal jurisdiction.

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20 **IT IS SO ORDERED.**

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22 Dated: July 19, 2013

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25 JACQUELINE SCOTT CORLEY  
26 UNITED STATES MAGISTRATE JUDGE  
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