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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ETHAN INVESTMENT, LLC and)	Case No.: 10-CV-02527-LHK
TRUSTWAY INVESTMENTS, LLC)	
)	ORDER TO SHOW CAUSE
Plaintiffs,)	
v.)	
)	
LOUELLA D. MANZANO; and DOES 1 to 20,)	
inclusive)	
Defendant.)	

Defendant Louella D. Manzano removed this action for unlawful detainer from the Superior Court of Santa Clara County on June 8, 2010. However, it appears that the Court lacks subject matter jurisdiction over the removed action. Although Plaintiff has not moved to remand, this Court has a continuing obligation to raise issues of subject matter jurisdiction whenever it appears that jurisdiction may be lacking. Fed. R. Civ. Pro. 12(h)(3); *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983). If a court lacks subject matter jurisdiction over a removed action, that action must be remanded. 28 U.S.C. § 1447(c). Defendant bears the burden of establishing that removal is proper. *Provincial Gov't of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1087 (9th Cir. 2009).

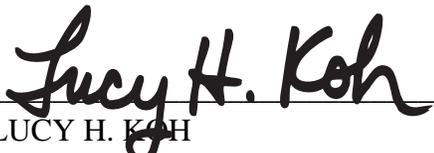
In the notice of removal, Defendant asserts that grounds for removal exist because their principal claim for relief arises under federal law. However, a defendant may remove a case to

1 federal court only if “the *plaintiff*’s complaint establishes that the case ‘arises under’ federal law.”
2 *Franchise Tax Bd. v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983). It is well-
3 settled that a case may not be removed to federal court on the basis of a federal defense. *Id.* at 14.
4 Rather, “the federal question must ‘be disclosed upon the face of the complaint, unaided by the
5 answer.’” *Provincial Gov’t of Marinduque*, 582 F.3d at 1086 (quoting *Phillips Petroleum Co. v.*
6 *Texaco, Inc.*, 415 U.S. 125, 127-28 (1974)). Because Plaintiff’s complaint for unlawful detainer
7 raises no federal claims, there appears to be no basis for removal and no subject matter jurisdiction
8 in this Court.

9
10 IT IS HEREBY ORDERED that Defendant shall show cause why this action should not be
11 remanded to state court. Defendant shall file a written response not to exceed 5 pages no later than
12 2 p.m. on September 6, 2010. Plaintiffs may also file a submission addressing the issues, not to
13 exceed 5 pages, by the same date.

14 **IT IS SO ORDERED.**

15 Dated: August 26, 2010

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LUCY H. KOH
United States District Judge