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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 OSCAR FLAGG,

12 Plaintiff,

13 vs.

14 SHARON JACOB, and DOES 1–5

15 Defendants.

CASE NO. 10-cv-1815 JLS (BGS)

**ORDER: REMANDING ACTION
TO STATE COURT**

16 Defendant Sharon Jacob filed a notice of removal on August 31, 2010. (Doc. No. 1.) A review
17 of the notice of removal indicates that Defendant is not entitled to remove this action.

18 The removing party bears the burden of establishing that federal subject matter jurisdiction
19 exists. *Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1195 (9th Cir. 1988). In evaluating this
20 showing, the Court must “strictly construe the removal statute against removal jurisdiction.” *Gaus*
21 *v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (citations omitted). Therefore, “[f]ederal jurisdiction
22 must be rejected if there is any doubt as to the right of removal in the first instance.” *Id.* (citing
23 *Libhart v. Santa Monica Dairy Co.*, 592 F.2d 1062, 1064 (9th Cir. 1979)).

24 First, this matter does not satisfy federal question jurisdiction. Plaintiff filed an unlawful
25 detainer suit and has not raised any federal claims. (Doc. No. 1 at 5.) Based on the allegations found
26 in the complaint, this Court finds that there is no federal question as required for federal question
27 jurisdiction.

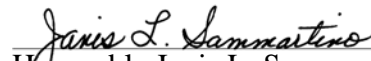
28 Second, Defendant has not demonstrated diversity jurisdiction. Plaintiff alleges the amount

1 demanded does not exceed \$10,000.00 and requests damages for past rent due in the amount of
2 \$4,500.00 and for the fair rental value of \$16.66 per day beginning from September 1, 2010. (Doc.
3 No. 1 at 5, 7.) Based on the allegations found in the complaint, this Court finds that the amount in
4 controversy does not exceed \$75,000.00 as required for diversity jurisdiction.

5 In light of these findings, the Court concludes that Defendant has not carried the burden of
6 establishing this Court's jurisdiction. Therefore, this matter is **REMANDED** to San Diego Superior
7 Court.

8 **IT IS SO ORDERED**

9 DATED: September 15, 2010

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11 Honorable Janis L. Sammartino
12 United States District Judge
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