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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

SILVIA ORZCO,  
  
vs.  
  
RAYMOND ESCALANTE, et al.  
  
Plaintiff,  
  
Defendants.

CASE NO. 16cv384-LAB (NLS)  
**ORDER DENYING AS MOOT MOTION  
TO PROCEED *IN FORMA PAUPERIS*;  
AND  
ORDER OF REMAND**

Defendant Raymond Escalante, proceeding *pro se*, removed this unlawful detainer action from the Superior Court of the County of San Diego, North County Division. He filed a motion for leave to proceed *in forma pauperis*, giving only his own financial information. Neither of the other two Defendants joined in the removal.

A district court must examine notices of removal and remand actions if the Court lacks jurisdiction. 28 U.S.C. § 1447(c); *Sparta Surgical Corp. v. Nat'l Ass'n of Sec. Dealers, Inc.*, 159 F.3d 1209, 1211 (9th Cir. 1998).

The notice of removal admits diversity jurisdiction is lacking. Because the complaint for unlawful detainer arises under state law, it appears federal question jurisdiction is lacking as well. Escalante does raise federal defenses or counterclaims, but counterclaims and defenses do not create federal question jurisdiction. See *Vaden v. Discover Bank*, 556 U.S. 49, 59 (2009).

