

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

MARILYN HARTMANN,

Plaintiff,

CASE NO. 17cv1908-LAB (NLS)

CALE CORR

Defendant.

15 “If it is *unclear* what amount of damages the plaintiff has sought . . . then the
16 defendant bears the burden of actually proving the facts to support jurisdiction, including the
17 jurisdictional amount.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566–67 (9th Cir. 1992). As in *Gaus*,
18 Costco only offered a conclusory allegation that based on the causes of action, it was likely
19 the amount in controversy would exceed \$75,000. This type of bare allegation “neither
20 overcomes the strong presumption against removal jurisdiction, nor satisfies [defendants’]
21 burden of setting forth, in the removal petition itself, the *underlying facts* supporting its
22 assertion that the amount in controversy” is met. *Id.* 567. Since “it appears that the district
23 court lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447.

IT IS SO ORDERED.

Dated: October 2, 2017

Larry A. Burn
HONORABLE LARRY ALAN BURN
United States District Judge