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

10 MARILYN HARTMANN,

11 Plaintiff,

CASE NO. 17cv1908-LAB (NLS)

ORDER OF REMAND

12 vs.

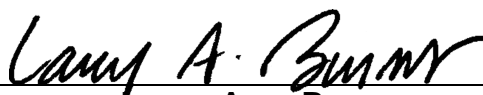
13 COSTCO WHOLESALE CORP.,

14 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.

24 **IT IS SO ORDERED.**

25 Dated: October 2, 2017

26 
27 **HONORABLE LARRY ALAN BURNS**
28 United States District Judge