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

10 CARRILLO PROPERTY, LLC 1-100,
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12 Plaintiff,
13 v.
14 JENNIFER ROBINSON; and RUCHELL
15 ROBINSON,
16 Defendants.

Case No.: 17cv2505-MMA (JLB)

**ORDER *SUA SPONTE* REMANDING
ACTION FOR LACK OF SUBJECT
MATTER JURISDICTION**

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18 On December 14, 2017, Defendants Jennifer Robinson and Ruchell Robinson
19 (“Defendants”), proceeding *pro se*, filed a notice of removal in this unlawful detainer
20 action from the Superior Court of the State of California for San Diego County. *See* Doc.
21 No. 1. Based upon the Court’s review of Defendants’ notice of removal, the Court finds
22 it does not have subject matter jurisdiction over this action. Accordingly, the Court *sua*
23 *sponte* **REMANDS** the action to state court.

24 **DISCUSSION**

25 Federal courts are of limited jurisdiction. *Lowdermilk v. U.S. Bank Nat’l Ass’n*,
26 479 F.3d 994, 997 (9th Cir. 2007). Federal courts possess only that power authorized by
27 the Constitution or a statute. *See Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534,
28 541 (1986). The Court is constitutionally required to raise issues related to federal

1 subject matter jurisdiction, and may do so *sua sponte*. *Steel Co. v. Citizens for a Better*
2 *Env't*, 523 U.S. 83, 93-94 (1998); *see Indus. Tectonics, Inc. v. Aero Alloy*, 912 F.2d 1090,
3 1092 (9th Cir. 1990). Removal jurisdiction is governed by 28 U.S.C. § 1441, *et seq.* A
4 state court action can only be removed if it could have originally been brought in federal
5 court. *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392, (1987); *Duncan v. Stuetzle*, 76
6 F.3d 1480, 1485 (9th Cir. 1996). Thus, for an action to be removed on the basis of
7 federal question jurisdiction, the complaint must establish either that federal law creates
8 the cause of action or that the plaintiff's right to relief necessarily depends on the
9 resolution of substantial questions of federal law. *Franchise Tax Board of Cal. v.*
10 *Construction Laborers Vacation Trust for Southern Cal.*, 463 U.S. 1, 10-11 (1983).
11 Additionally, a federal court also has jurisdiction over an action involving citizens of
12 different states when the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332.

13 “The burden of establishing federal jurisdiction is on the party seeking removal,
14 and the removal statute is strictly construed against removal jurisdiction.” *Nishimoto v.*
15 *Federman-Bachrach & Assoc.*, 903 F.2d 709, 712 n.3 (9th Cir. 1990). “Federal
16 jurisdiction must be rejected if there is any doubt as to the right of removal in the first
17 instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). Whether federal
18 jurisdiction exists is governed by the well-pleaded complaint rule. *Caterpillar*, 482 U.S.
19 at 392. The well-pleaded complaint rule is a “powerful doctrine [that] severely limits the
20 number of cases in which state law ‘creates the cause of action’ that may be initiated in or
21 removed to federal district court” *Franchise Tax Bd.*, 463 U.S. at 9-10. Under this
22 rule, the federal question must be “presented on the face of the plaintiff's properly
23 pleaded complaint.” *Id.*; *accord Wayne v. DHL Worldwide Express*, 294 F.3d 1179, 1183
24 (9th Cir. 2002).

25 Defendants argue that this action is properly removable based on federal question
26 jurisdiction. *See* Doc. No. 1 at 8. Specifically, Defendants allege that the Court has
27 jurisdiction pursuant to the Emergency Economic Stabilization Act, the American
28 Recovery and Investment Act, the Securities Act, and the Exchange Act. *See id.* In

1 liberally construing the notice of removal, any purported federal rights or claims would
2 be defenses and potential counterclaims against Plaintiff. However, neither defenses nor
3 counterclaims are considered in evaluating whether a federal question appears on the face
4 of a plaintiff's complaint. *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009) (federal
5 question jurisdiction cannot "rest upon an actual or anticipated counterclaim"); *Valles v.*
6 *Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005) ("A federal law defense to a state-law
7 claim does not confer jurisdiction on a federal court, even if the defense is that of federal
8 preemption and is anticipated in the plaintiff's complaint."). Because no federal claim is
9 present on the face of the state court complaint, Defendants fail to establish that the Court
10 has federal question jurisdiction under 28 U.S.C. § 1441.

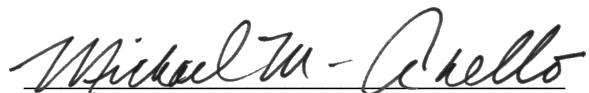
11 Defendants also fail to establish that the Court has diversity jurisdiction pursuant to
12 28 U.S.C. § 1332. The notice of removal does not demonstrate that the amount in
13 controversy exceeds \$75,000, and the face of the state court complaint clearly
14 demonstrates that Plaintiff seeks damages not to exceed \$10,000. *See* Doc. No. 1-3 at 2.
15 Thus, Defendants fail to establish that the Court has diversity jurisdiction.

16 In sum, Defendants have not adequately established a basis for this Court's subject
17 matter jurisdiction. The Court must remand the case. *See* 28 U.S.C. § 1447(c).

18 CONCLUSION

19 Based on the foregoing, Defendants have not adequately established a basis for this
20 Court's subject matter jurisdiction. Accordingly, the Court *sua sponte* **REMANDS** this
21 action to the Superior Court of the State of California for San Diego County. The Clerk
22 of Court is instructed to close the case.

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24 Date: December 14, 2017



25 HON. MICHAEL M. ANELLO
26 United States District Judge
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