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4 IN THE UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA

6 WELLS FARGO BANK, N.A.,

No. C 13-03538 SI

7 Plaintiff,

8 v.

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
REMANDING CASE TO THE SUPERIOR
COURT FOR ALAMEDA COUNTY**

9 DARRYL CHANEY,

10 Defendant.
11 _____/

12 *Pro se* defendant Darryl Chaney removed this unlawful detainer action from state court and filed
13 an application to proceed *in forma pauperis*. On August 5, 2013, Chief Magistrate Judge Laporte issued
14 a Report and Recommendation Re: Defendant's Notice of Removal.

15 The Report and Recommendation finds that there is no federal jurisdiction because there are no
16 federal claims alleged in the complaint and no basis for diversity jurisdiction. The Report and
17 Recommendation was served on defendant by mail. No objections were filed by the August 19, 2013
18 deadline. This case was reassigned to the undersigned judge.

19 The Court GRANTS defendant's request to proceed *in forma pauperis* and concludes that
20 removal was improper. The Protecting Tenants at Foreclosure Act ("PTFA"), cited in the Notice of
21 Removal, does not create a federal claim or any private right of action. *See Nativi v. Deutsche Bank*
22 *Nat. Trust Co.*, 2010 WL 2179885, at *3 (N.D. Cal. May 26, 2010). While the PTFA's notice
23 requirements may create a federal defense to unlawful detainer in a state court action, *see Wells Fargo*
24 *Bank v. Lapeen*, 2011 WL 2194117, at *4 (N.D. Cal. June 6, 2011), an anticipated federal defense,
25 without more, is not sufficient to confer federal jurisdiction, *see Franchise Tax Bd. of California v.*
26 *Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983); *Valles v. Ivy Hill Corp.*, 410 F.3d 1071,
27 1075 (9th Cir. 2005).
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Accordingly, the Court ADOPTS the Report and Recommendation and REMANDS this case to the Superior Court for Alameda County. This Order resolves Docket Nos. 2, 4, and 7.¹

IT IS SO ORDERED.

Dated: August 20, 2013



SUSAN ILLSTON
United States District Judge

¹ Plaintiff's motion to remand (Docket No. 7) is moot.