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2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 OAKLAND DIVISION  
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6 US BANK NATIONAL ASSOCIATION ND,

7 Plaintiff,

8 vs.

9 MICHAEL A. CARNACCHI,

10 Defendant.  
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Case No: C 09-5366 SBA

**ORDER REMANDING ACTION**

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13 On July 30, 2009, Plaintiff US Bank National Association ND filed a breach of contract  
14 action against Defendant Michael A. Carnacchi in the Sonoma County Superior Court. Plaintiff  
15 seeks damages in the amount of \$16,272.09 based on Defendant's alleged failure to comply with  
16 the terms of a credit agreement. On November 13, 2009, Defendant, acting pro se, filed a Notice  
17 of Removal and an Application to Proceed In Forma Pauperis ("IFP"). Though no federal claims  
18 are alleged in the Complaint, Defendant removed the action on the ground that Plaintiff's actions  
19 allegedly violate federal law.

20 Federal courts are courts of limited jurisdiction, having subject matter jurisdiction only over  
21 matters authorized by the Constitution and Congress. Kokkonen v. Guardian Life Ins. Co., 511  
22 U.S. 375, 377 (1994). A suit filed in state court may be removed to federal court if the federal court  
23 would have had original jurisdiction over the suit. 28 U.S.C. § 1441(a). A removed action must be  
24 remanded to state court if the federal court lacks subject matter jurisdiction. 28 U.S.C § 1447(c).  
25 "The burden of establishing federal jurisdiction is on the party seeking removal, and the removal  
26 statute is strictly construed against removal jurisdiction." Prize Frize, Inc. v. Matrix (U.S.) Inc.,  
27 167 F.3d 1261, 1265 (9th Cir. 1999). As such, any doubts regarding the propriety of the removal  
28 favor remanding the case. See Gaus v. Miles, Inc., 980 F.2d 564, 566 (9th Cir. 1992).

1 Here, Plaintiff's claim is for breach of contract and is based entirely on state law. No  
2 federal claims are alleged. Although Defendant purports to raise *defenses* predicated on federal  
3 law, it is well settled that a complaint that is based entirely on state law is not removable by virtue  
4 of anticipated federal defenses to the pleadings. Schwarzer, Tashima & Wagstaffe, Federal Civ. P.  
5 Before Trial, § 1.121 at 2B-50 (TRG 2008). Since Plaintiff's complaint sounds only in state law,  
6 and there appears to be no plausible basis for removal, the Court shall remand the action.

7 Accordingly,

8 IT IS HEREBY ORDERED THAT, pursuant to 28 U.S.C. § 1447(c), the instant action is  
9 REMANDED to the Sonoma County Superior Court. Defendant's application to proceed IFP is  
10 DENIED AS MOOT. The Clerk shall close the file and terminate all pending matters.

11 IT IS SO ORDERED.

12 Dated: November 18, 2009

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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**CERTIFICATE OF SERVICE**

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
13 Court, Northern District of California.

14 That on November 19, 2009, I SERVED a true and correct copy(ies) of the attached, by placing  
15 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
16 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
17 receptacle located in the Clerk's office.

18 Michael A. Carnacchi  
19 227 North Main Street  
20 Sebastopol, CA 95472

21 Dated: November 19, 2009

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk

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