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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION
5

6 MICHAEL P. LESSARD,

7 Plaintiff,

8 vs.

9 TRINITY PROTECTION SERVICES, INC.,
10 a Maryland Corporation, and DOES 1 through
50, inclusive,

11 Defendants.
12

Case No: C 10-5891 SBA

ORDER REMANDING ACTION

Dkt. 14, 32

13 Plaintiff filed the instant wage and hour class action in Alameda County Superior
14 Court alleging, inter alia, that Defendant Trinity Protection Services, Inc., violated various
15 provisions of the California Labor Code. Defendant removed the action to this Court on the
16 grounds that Plaintiff's state law causes of action are completely preempted by section 301
17 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185; see Allis-Chalmers
18 Corp. v. Lueck, 471 U.S. 202, 209-10 (1985); Stikes v. Chevron U.S.A., Inc., 914 F.2d
19 1265, 1268 (9th Cir. 1990). The parties are now before the Court is Plaintiffs' Motion to
20 Remand and Request for Attorneys' Fees. Dkt. 14. Having read and considered the papers
21 filed in connection with this matter and being fully informed, the Court hereby GRANTS
22 Plaintiff's motion to remand and DENIES his request for attorneys' fees and costs.¹

23 The Court finds that Plaintiff's claims are not preempted by the LMRA. The rights
24 which Plaintiff seeks to vindicate emanate from California law, and are independent from
25 the collective bargaining agreement ("CBA"). See Burnside v. Kiewit Pac. Corp., 491 F.3d
26 1053, 1061 (9th Cir. 2007). Nor do any of such claims require interpretation of the CBA.
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28 ¹ In light of the Court's decision to remand the action to state court, Defendant's
motion to transfer venue under 28 U.S.C. § 1404(a), Dkt. 32, is DENIED as moot.

1 See Allis-Chalmers, 471 U.S. at 209-10. Although the Court concludes that Plaintiff's
2 claims are not completely preempted and that removal jurisdiction is absent, an award of
3 fees and costs under 28 U.S.C. § 1447(c) is not warranted, as Defendant had an objectively
4 reasonable basis for removal. See Martin v. Franklin Capital Corp., 546 U.S. 132, 141
5 (2005); Moore v. Permanente Medical Group, Inc., 981 F.2d 443, 447 (9th Cir. 1992).
6 Accordingly,

7 IT IS HEREBY ORDERED THAT Plaintiff's motion to remand is GRANTED and
8 his request for an award of fees and costs is DENIED. The instant action is REMANDED
9 forthwith to the Alameda County Superior Court. In accordance with 28 U.S.C. § 1447(c),
10 the Clerk of this Court shall mail a certified copy of this Order to the Clerk of the Superior
11 Court. The Clerk shall close the file and terminate all pending matters.

12 IT IS SO ORDERED.

13 Dated: September 9, 2011


SAUNDRA BROWN ARMSTRONG
United States District Judge

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