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United States District Court  
Northern District of California

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

RICHARD BORQUIST,  
Plaintiff,  
  
v.  
  
RAJAE NINO,  
Defendant.

Case No. 17-cv-00068-BLF

**ORDER ADOPTING REPORT AND  
RECOMMENDATION OF  
MAGISTRATE JUDGE LLOYD,  
GRANTING APPLICATION TO  
PROCEED IN FORMA PAUPERIS, AND  
REMANDING ACTION TO  
MONTEREY COUNTY SUPERIOR  
COURT**

On January 9, 2017, Magistrate Judge Howard R. Lloyd in his Report and Recommendation (“R&R”) determined that Defendant Rajae Nino’s application to proceed in forma pauperis should be granted and that this unlawful detainer action should be remanded to state court. *See* ECF 4. No objections have been filed by Defendant.

When a party makes no objection to an R&R, the Court reviews it for clear error or manifest injustice. Fed. R. Civ. P. 72(b). After conducting an appropriate review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). The Court has reviewed and thoroughly considered Judge Lloyd’s R&R.

First, having considered the application to proceed in forma pauperis and the complaint, the Court hereby GRANTS Nino’s application to proceed in forma pauperis.

Next, as for the recommendation to remand the case, the Court notes that Nino, as the party seeking removal, bears the burden of demonstrating subject matter jurisdiction. The Court concludes that there is no federal jurisdiction in the instant case for several reasons. One is that the Protecting Tenants at Foreclosure Act of 2009 (FPFA) has expired and does not apply to the


1 asserted claims. *Fairview Tasman LLC v. Young*, No. 15-CV-05493-LHK, 2016 WL 199060, at  
2 \*2 (N.D. Cal. Jan. 18, 2016). Another is that PTFA has no express or implied private right of  
3 action. *Logan v. U.S. Bank Nat'l Ass'n*, 722 F.3d 1163, 1170-73 (9th Cir. 2013). Lastly, the  
4 PTFA is not an essential element of Plaintiff's claim. Thus, this Court does not have subject  
5 matter jurisdiction over this action.

6 Finding the R&R correct, well-reasoned, and thorough, the Court adopts it in every  
7 respect. 28 U.S.C. § 636(b). Accordingly, the Court GRANTS the motion to proceed in forma  
8 pauperis and the above-titled unlawful detainer action is REMANDED to Monterey County  
9 Superior Court.

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**IT IS SO ORDERED.**

Dated: January 27, 2017

  
BETH LABSON FREEMAN  
United States District Judge