

1 merits, it is not so when the dismissal is for lack of subject-matter jurisdiction). Therefore, the
2 removal statute provides: “If at any time before final judgment it appears that the district court
3 lacks subject matter jurisdiction, the case shall be remanded.” 28 U.S.C. § 1447(c). As the
4 party seeking to invoke the jurisdiction of this court, Defendant bears the burden of
5 establishing the “actual existence of subject matter jurisdiction.” *See Thompson v. McComb*,
6 99 F.3d 352, 353 (9th Cir. 1996).


7 The Notice of Removal states that the grounds for removal are:

8 [T]he amount in controversy as to the claims of both parties exceeds
9 \$500,000.00, exclusive of interest and costs, in that the defendant’s Caveat
10 Judicial Notice pursuant to the Sovereign Clearfield Doctrine:
11 Notice of Condemnation (Eminent Domain) of said property located at the
12 Republic of California 4075-4077 Wabash Avenue, San Diego, CA 92104
13 outside the Territory of the Sovereign United States is not for public use unless
14 alleged parties claiming ownership can show proof of claim from the original
15 Deed of Trust and signed Affidavit and Government Tort, Tort
16 Waiver/Conditional Acceptance signed under the Penalty of Perjury and their
17 full Liability before a Notary Public, per- Federal Judge Boyko Decision, Etc.

18 Defendant does not assert any basis for federal jurisdiction, nor is any basis for federal
19 jurisdiction apparent from the state court cover sheets.¹ Both parties are listed at California
20 addresses, the Civil Cover Sheet filed in this Court states that both parties are citizens of this
21 state, and there are no federal law claims.

22 IT IS HEREBY ORDERED that this action is REMANDED to the state court. The
23 Motion for Leave to Proceed in Forma Pauperis is DENIED AS MOOT.

24 DATED: January 25, 2010

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WILLIAM Q. HAYES
United States District Judge

¹ Defendant failed to file a copy of the complaint with the Notice of Removal. However, a detailed Civil Case Cover Sheet from the state court action describing the claim is attached.