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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 LASALLE BANK NATIONAL  
12 ASSOCIATION,

Plaintiff,

13 vs.

14 CRAIG MORSE and SHAD MARTIN,

15 Defendants.  
16

CASE NO. 10cv1776-LAB (WMC)

**ORDER GRANTING PLAINTIFF'S  
EX PARTE MOTION FOR  
REMAND**

17 Shad Martin removed this unlawful detainer action to this Court on August 25, 2010  
18 and shortly thereafter filed a motion to dismiss. LaSalle Bank filed a motion to remand, *ex*  
19 *parte*, on October 15, 2010. The motion to remand, because it questions the Court's  
20 jurisdiction to even hear this case, has to be decided first. Indeed, "[t]he federal courts are  
21 under an independent obligation to examine their jurisdiction." *FW/PBS, Inc. v. City of*  
22 *Dallas*, 493 U.S. 215, 230–31 (1990).

23 Martin explains in his motion to dismiss that he removed this case from state court "by  
24 supplemental jurisdiction to be heard with related case #10 CV 1775 BTM (BGS), *Martin v.*  
25 *LaSalle*." (Doc. No. 5, p. 2.) But under the federal removal statute, 28 U.S.C. § 1441(a),  
26 "[o]nly state-court actions that *originally* could have been filed in federal court may be  
27 removed to federal court by the defendant." *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392  
28 (1987) (emphasis added). The fact that this case is related to another one before the Court

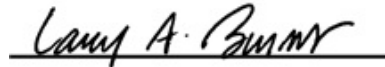
1 does not give rise to original jurisdiction, and cannot be the basis of removal. See *U.S. Bank*  
2 *Nat. Ass'n v. Lasoff*, No. CO 10-235, 2010 WL 669239 at \*1 (C.D. Cal. Feb. 23, 2010).

3 Martin does raise a federal law — the Protecting Tenants at Foreclosure Act of  
4 2009 — as a defense to LaSalle's action, but under the well-pleaded complaint rule, federal  
5 jurisdiction cannot be predicated on defenses or counterclaims. *Vaden v. Discover Bank*,  
6 129 S.Ct. 1262, 1272–73 (2009). The additional arguments that Mr. Martin raises in his  
7 opposition to the motion to remand are not persuasive.

8 The Court has no jurisdiction over this case. LaSalle's motion to remand is therefore  
9 **GRANTED.**

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11 **IT IS SO ORDERED.**

12 DATED: October 20, 2010

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14 **HONORABLE LARRY ALAN BURNS**  
15 United States District Judge  
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