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| 8 | UNITED STATES DISTRICT COURT | | |
| 9 | SOUTHERN DISTRICT OF CALIFORNIA | | |
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| 11 | CENTRAL MORTGAGE COMPANY, | CASE NO. 13cv2331-LAB (JMA) | |
| 12 | Plaintiff, vs. | ORDER DENYING AS MOOT MOTION TO PROCEED <i>IN</i> | |
| 13 | | FORMA PAUPERIS; AND | |
| 14 | DUANE ANDERSON, | ORDER OF REMAND | |
| 15 | Defendant. | | |
| 16 | Plaintiff Central Mortgage Company filed an unlawful detainer action in California | | |
| 17 | state court. Defendant Duane Anderson then filed a notice of removal, asserting federal | | |
| 18 | question jurisdiction under 28 U.S.C. § 1441 because, he argues, his defense or | | |
| 19 | counterclaim raises federal questions. Anderson also moved for leave to proceed <i>in forma</i> | | |
| 20 | pauperis. | | |
| 21 | The Court is obliged to examine its own jurisdiction, sua sponte if necessary, B.C. v. | | |
| 22 | Plumas Unified Sch. Dist., 192 F.3d 1260, 1264 (9th Cir. 1999), and to remand any removed | | |
| 23 | action over which it lacks jurisdiction. 28 U.S.C. § 1447(c). "Where doubt regarding the right | | |
| 24 | to removal exists, a case should be remanded to state court." <i>Matheson v. Progressive</i> | | |
| 25 | Specialty Ins. Co., 319 F.3d 1089, 1090 (9th Cir. 2003). Under the well-pleaded complaint | | |
| 26 | rule, federal question jurisdiction only exists when the complaint is based on federal law; | | |
| 27 | federal questions in defenses or counterclaims are insufficient. Vaden v. Discover Bank, 556 | | |
| 28 | | | |
| | - | 1 - 13cv2331 | |

| 1 | U.S. 49, 59–60, 70 (2009). The claims in the complaint arise only under state law; no federal | |
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| 2 | question is presented. There is no showing that jurisdiction would exist for some other | |
| 3 | reason, such as diversity. | |
| 4 | Because the notice of removal does not show why this action was removable, it is | |
| 5 | REMANDED to the Superior Court of California for the County of San Diego, from which it | |
| 6 | was removed. The motion to proceed in forma pauperis is DENIED AS MOOT . | |
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| 8 | IT IS SO ORDERED. | |
| 9 | DATED: September 30, 2013 | |
| 10 | Lang A. Burny | |
| 11 | Honorable Larry Alan Burns United States District Judge | |
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